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ABSTRACT

This publication is a compilation of the principal state constitutional and statutory provisions governing higher education in North Carolina in force on January 1, 1975. These provisions are grouped as they relate to: the University of North Carolina; North Carolina School of Arts; disruption on campus; tuition and fees; scholarship and loans; escheats and abandoned property; college revolving funds; revenue bonds for student housing; student activities; physical education and recreation; state education assistance authority; community college system; and miscellaneous encompassing public meetings, visiting speakers, motor vehicles, nonstate funds imposing obligation on state, criminal law, official misconduct, eminent domain, planning and regulation of development, sale of merchandise by governmental units, employee benefits, teacher certificates, cadavers for medical schools, current appropriations, and capital improvement appropriations for 1973 and 1974. (MJM)

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NORTH CAROLINA CONSTITUTIONAL and STATUTORY PROVISIONS WITH RESPECT TO HIGHER EDUCATION

by Robert E. Phay

U.S. DEPARTMENT OF HEALTH, EDUCATION & WELFARE
NATIONAL INSTITUTE OF EDUCATION
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EDITOR'S NOTE: In order to correct all old references in the General Statutes, the legislation reorganizing higher education provides that whenever the terms "Board of Higher Education" or "State Board of Higher Education", or "North Carolina Board of Higher Education" appear in the statutes, they are amended to "Board of Governors of the University of North Carolina." Whenever the terms "Director of Higher Education" or "Director of the Board of Higher Education" appear in the statutes, they are amended to read "President of the University of North Carolina." Whenever the words "boards of trustees" or "trustees" appear in the statutes with reference to the Board of Trustees of the University of North Carolina as it exists prior to July 1, 1972, the words are amended to read "Board of Governors." (1971 Session Laws, Ch. 1244, § 14 and 15.)

FOREWORD

This publication is a compilation of the principal state constitutional and statutory provisions governing higher education in North Carolina in force on January 1, 1975. It updates the compilation published after the 1971 General Assembly.

In addition to the statutory provisions of Chapter 116 on higher education and Chapter 115A on community colleges, the compilation contains other parts of the codified law affecting higher education. For example, the Riots and Civil Disorders Act in Chapter 14, the open-hearings act in Chapter 143, and the escheats provisions in Chapter 116A are included. Also included are several important uncodified acts, such as those raising tuition charges for nonresident students, the current operations and capital improvements appropriations acts, and the acts concerning a school of medicine at East Carolina University.

The index that appears at the end of this book will help you find the statute when you do not know its section number, and the table of statutory sections by numerical order on page xvii will help locate a section when you know the section number.

Anyone seeking a full knowledge of the statutory framework within which the state institutions of higher education function must examine not only the statutes found in this compilation but also several state statutes applicable to state agencies and institutions generally. In this category are the Teachers' and State Employees' Retirement Act (G.S. Ch. 135), the Executive Budget Act, (G.S. Ch. 143, art. 1), the Department of Administration Act (G.S. Ch. 143, art. 36), the State Personnel Act (G.S. Ch. 126), the State Purchasing Act (G.S. Ch. 143, arts. 3 and 3A), and the State Property Control Act (G.S. Ch. 146).

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Chapel Hill
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I. North Carolina Constitutional Provisions on Higher Education

North Carolina Constitution
Article IX. Education

Sec. 8. *Higher education.* The General Assembly shall maintain a public system of higher education, comprising The University of North Carolina and such other institutions of higher education as the General Assembly may deem wise. The General Assembly shall provide for the selection of trustees of The University of North Carolina and of the other institutions of higher education, in whom shall be vested all the privileges, rights, franchises, and endowments heretofore granted to or conferred upon the trustees of these institutions. The General Assembly may enact laws necessary and expedient for the maintenance and management of The University of North Carolina and the other public institutions of higher education.

Editor's Note.—The provisions of this section are similar to those of Art. IX, § 6, Const. 1868, as added in 1872-73, and the cases cited in the following annotation were decided under that section.

Rule-Making Power of Trustees of University.—Under the Constitution and statutes of this State, the management of the University of North Carolina is delegated to and invested in the board of trustees, and the board of trustees may make all necessary and proper and reasonable rules and regulations for the orderly management and government of the University of North Carolina and for the preservation of discipline of its students. In re Carter, 262 N.C. 360, 137 S.E.2d 150 (1964).

Resolution of Trustees Unconstitutional.—A resolution of the board of trustees of the University of North Carolina declaring the policy of the board that applications of negroes to the undergraduate schools of the University be not accepted violated the equal protection clause of the Fourteenth Amendment to the U.S. Constitution. Frasier v. Board of Trustees, 134 F. Supp. 589 (M.D.N.C. 1955), aff'd, 350 U.S. 979, 76 S. Ct. 467, 100 L. Ed. 848 (1956).

Sec. 9. *Benefits of public institutions of higher education.* The General Assembly shall provide that the benefits of The University of North Carolina and other public institutions of higher education, as far as practicable, be extended to the people of the State free of expense.

Editor's Note.—The provisions of this section are similar to those of Art. IX, § 7, Const. 1868.

Sec. 10. *Escheats.*

(1) *Escheats prior to July 1, 1971.* All property that prior to July 1, 1971, accrued to the State from escheats, unclaimed dividends, or distributive shares of the estates of deceased persons shall be appropriated to the use of The University of North Carolina.

(2) *Escheats after June 30, 1971.* All property that, after June 30, 1971, shall accrue to the State from escheats, unclaimed dividends, or distributive shares of the estates of deceased persons shall be used to aid worthy and needy students who are residents of this State and are enrolled in public institutions of higher education in this State. The method, amount, and type of distribution shall be prescribed by law.

Editor's Note.—The provisions of this section are similar to those of Art. IX, § 7, Const. 1868.

The amendment adopted by vote of the people at the general election held Nov. 3, 1970, effective July 1, 1971, designated the former provisions of this section as subsection (1) and made changes therein so as to restrict its application to escheats prior to July 1, 1971, and added subsection (2).

The case cited in the following annotation was decided under Art. IX, § 7, Const. 1868.

The right of succession by escheat to all property, when there is no wife or husband or parties entitled to inherit or take under the statutes of descent and distribution, has been conferred upon the University of North Carolina by this section, and extended by several statutes which are now G.S. §§ 116-20 through 116-25. Board of Educ. v. Johnston, 224 N.C. 86, 29 S.E.2d 126 (1944).

II. The University of North Carolina

Chapter 116. Higher Education

ARTICLE 1.

The University of North Carolina.

Part 1. General Provisions.

§ **116-1. Purpose.**—In order to foster the development of a well-planned and coordinated system of higher education, to improve the quality of education, to extend its benefits and to encourage an economical use of the State's resources, the University of North Carolina is hereby redefined in accordance with the provisions of this Article. (1971, c. 1244, s. 1.)

Revision of Portions of Article.—Parts 1, 2 and 3 of this Article were rewritten, and the remainder of the Article extensively amended, by Session Laws 1971, c. 1244. Section 1 of c. 1244 repealed former §§ 116-1 through 116-11, 116-12 through 116-18, 116-27, 116-34 through 116-37, 116-38 through 116-39.2, 116-42 through 116-44 and 116-44.10 through 116-46 and enacted present §§ 116-1 through 116-22 and 116-31 through 116-36. Subsequent sections of c. 1244 amended, transferred and renumbered numerous other sections in this Article and elsewhere in this Chapter. Section 22 of c. 1244 provides: "Sections 1 through 19 of this act shall become effective on July 1, 1972, except that appointments and elections pursuant to the provisions of the act may be made upon ratification of the act and prior to July 1, 1972 . . . ." The act was ratified on October 30, 1971.

§ **116-2. Definitions.**—As used in this Article, unless the context clearly indicates a contrary intent:

(1) "Board" means the Board of Governors of the University of North Carolina.

(2) "Board of trustees" means the board of trustees of a constituent institution.

(3) "Chancellor" means the chancellor of a constituent institution.

(4) "Constituent institution" or "institution" means one of the 16 public senior institutions, to wit, the University of North Carolina at Chapel Hill, North Carolina State University at Raleigh, the University of North Carolina at Greensboro, the University of North Carolina at Charlotte, the University of North Carolina at Asheville, the University of North Carolina at Wilmington, Appalachian State University, East Carolina University, Elizabeth City State University, Fayetteville State University, North Carolina Agricultural and Technical State University, North Carolina Central University, North Carolina School of the Arts, Pembroke State University, Western Carolina University, and Winston-Salem State University.

(5) "President" means the President of the University of North Carolina. (1971, c. 1244, s. 1.)

§ **116-2.1**: Repealed by Session Laws 1971, c. 1244, s. 1, effective July 1, 1972.

Part 2. Organization, Governance and Property of the University.

§ **116-3. Incorporation and corporate powers.**—The board of trustees of the University of North Carolina is hereby redesignated, effective July 1, 1972, as the "Board of Governors of the University of North Carolina." The Board of Governors of the University of North Carolina shall be known and distinguished

by the name of "the University of North Carolina" and shall continue as a body politic and corporate and by that name shall have perpetual succession and a common seal. It shall be able and capable in law to take, demand, receive, and possess all moneys, goods, and chattels that shall be given for the use of the University, and to apply the same according to the will of the donors; and by gift, purchase, or devise to receive, possess, enjoy, and retain forever any and all real and personal estate and funds, of whatsoever kind, nature, or quality the same may be, in special trust and confidence that the same, or the profits thereof, shall be applied to and for the use and purpose of establishing and endowing the University, and shall have power to receive donations from any source whatever, to be exclusively devoted to the purposes of the maintenance of the University, or according to the terms of donation.

The corporation shall be able and capable in law to bargain, sell, grant, alien, or dispose of and convey and assure to the purchasers any and all such real and personal estate and funds as it may lawfully acquire when the condition of the grant to it or the will of the devisor does not forbid it; and shall be able and capable in law to sue and be sued in all courts whatsoever; and shall have power to open and receive subscriptions, and in general may do all such things as are usually done by bodies corporate and politic, or such as may be necessary for the promotion of learning and virtue. (1971, c. 1244, s. 1.)

Revision of Portions of Article. — See same catchline under § 116-1.

§ 116-4. Constituent institutions of the University of North Carolina. —On July 1, 1972, the University of North Carolina shall be composed of the following institutions: the University of North Carolina at Chapel Hill, North Carolina State University at Raleigh, the University of North Carolina at Greensboro, the University of North Carolina at Charlotte, the University of North Carolina at Asheville, the University of North Carolina at Wilmington, Appalachian State University, East Carolina University, Elizabeth City State University, Fayetteville State University, North Carolina Agricultural and Technical State University, North Carolina Central University, North Carolina School of the Arts, Pembroke State University, Western Carolina University and Winston-Salem State University. (1971, c. 1244, s. 1.)

§ 116-4.1: Repealed by Session Laws 1971, c. 1244, s. 1, effective July 1, 1972.

§ 116-5. Initial membership of Board of Governors.—(a) Commencing July 1, 1972, and continuing for the terms hereinafter stated and until their successors are chosen, the Board of Governors shall consist of the following members:

(1) Three persons elected prior to January 1, 1972, by and from the membership of the board of trustees of East Carolina University and two persons elected prior to January 1, 1972, by and from the membership of the board of trustees of each of the following institutions: Appalachian State University, North Carolina Agricultural and Technical State University, North Carolina Central University, and Western Carolina University.

(2) One person elected prior to January 1, 1972, by and from the membership of the board of trustees of each of the following institutions: Elizabeth City State University, Fayetteville State University, North Carolina School of the Arts, Pembroke State University, and Winston-Salem State University.

(3) Sixteen persons elected prior to January 1, 1972, by and from the membership of the board of trustees of the University of North Carolina.

(4) Two persons elected prior to January 1, 1972, by the Board of Higher Education from its eight members-at-large. These shall be nonvoting members whose term shall expire on June 30, 1973.

(b) Of the 16 persons elected by the board of trustees of the University of North Carolina, four shall serve a term ending on June 30, 1973, four shall serve a term ending on June 30, 1975, four shall serve a term ending on June 30, 1977, and four shall serve a term ending on June 30, 1979. On January 1, 1972, or as soon as practicable thereafter, those sixteen persons shall by lot or other means acceptable to them determine which of them shall be assigned the terms ending in 1973, 1975, 1977, and 1979 respectively. Of the 11 persons elected by the boards of trustees of the institutions listed in G.S. 116-5(a)(1), three shall serve a term ending in 1973, three shall serve a term ending on June 30, 1975, three shall serve a term ending on June 30, 1977, and two shall serve a term ending on June 30, 1979. On January 1, 1972, or as soon as practicable thereafter, those 11 persons shall by lot or other means acceptable to them determine which of them shall be assigned the terms ending in 1973, 1975, 1977, and 1979 respectively. Of the five persons elected by the boards of trustees of the institutions listed in G.S. 116-5(a)(2), the member elected from the board of trustees of the North Carolina School of the Arts shall serve a term ending on June 30, 1973, and of the remaining members, one shall serve a term ending on June 30, 1975, one shall serve a term ending on June 30, 1977, and two shall serve a term ending on June 30, 1979. On January 1, 1972, or as soon as practicable thereafter, those four persons, excluding the member from the North Carolina School of the Arts, shall by lot or other means acceptable to them determine which of them shall be assigned the terms ending in 1975, 1977, and 1979 respectively.

(c) Any vacancy occurring in the membership of the Board of Governors between July 1, 1972, and June 30, 1973, shall be filled by appointment of the Governor, and the person appointed shall serve for the remainder of the unexpired term.

(d) The Governor shall serve ex officio as a member and as chairman of the Board of Governors until December 31, 1972. (1971, c. 1244, s. 1.)

Editor's Note. — Session Laws 1971, c. 1244, s. 20, provides as follows:

"Sec. 20. (a) The membership of the initial Board of Governors of the University of North Carolina, as provided for in G.S. 116-5, as rewritten by this act, shall be designated prior to December 31, 1971, by the various institutional boards of trustees and by the Board of Higher Education, and effective January 1, 1972, the persons so designated, with the Governor as chairman, shall constitute a Planning Committee to serve until July 1, 1972, on which date the members of the committee shall become, in accordance with the provisions of G.S. 116-5, the initial Board of Governors of the University of North Carolina.

(b) The Planning Committee shall have the following powers and duties:

(1) To prepare a plan for the merging of the staff positions of the Board of Higher Education and of the general administration of the University of North Carolina, said plan to become effective July 1, 1972;

(2) To elect a President and, upon his recommendation, to elect such other officers as may be deemed necessary or desirable, all of whom shall take office on or after July 1, 1972, and to designate positions, titles and salaries for the new staff;

(3) To assign individual staff members of the Board of Higher Education and of the general administration of the University of North Carolina to serve as temporary staff for the Planning Committee and to employ such additional staff personnel as may be needed;

(4) With the approval of the Advisory Budget Commission, to make adjustments in the operating budgets of the Board of Higher Education and of the general administration of the University of North Carolina, combining the two budgets into one budget effective July 1, 1972;

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(5) To make such arrangements as may be deemed desirable for housing the staff of the Board of Governors;

(6) Following consultation with institutional heads and with the boards of trustees of the institutions, to make any and all plans that may be deemed desirable to effectuate the merger of the 10 institutions into the University of North Carolina; and

(7) To make recommendations to the Governor, the Department of Administration, the Board of Higher Education and the institutional boards of trustees concerning actions that, in the judgment of the Planning Committee, would facilitate the implementation of this act.

(c) With the approval of the Advisory Budget Commission, the Planning Committee may, during the period January 1 to June 30, 1972, use such funds as it may deem desirable from the operating budget of the general administration of the University of North Carolina or from the operating budget of the Board of Higher Education. In addition the Planning Committee may request funds from the Contingency and Emergency Fund to be used either during the six-month period or for the year beginning July 1, 1972, if the Planning Committee concludes that additional funds are needed.

(d) If any vacancy should occur in the Planning Committee after January 1, 1972, and prior to July 1, 1972, it shall be filled by the institutional board or the agency that appointed the person whose place is vacant."

§ 116-6. Election and terms of members of Board of Governors. — (a) As the terms of members of the Board of Governors provided for in G.S. 116-5 expire, their successors shall be elected by the Senate and House of Representatives. Eight members shall be so elected at the regular legislative session in 1973 and every two years thereafter.

(b) All terms shall commence on July 1 of odd-numbered years and all members shall serve for eight-year overlapping terms.

(c) No member may be elected to more than two full terms in succession.

(d) The Senate and House of Representatives, in electing members of the Board of Governors, shall select from a slate of nominees made in a joint session of the General Assembly. There shall be nominated from the floor at least twice the number of persons as there are vacancies to be filled. The Senate and the House of Representatives shall each elect one half of the persons necessary to fill the vacancies, with the Senate to hold its election prior to the House of Representatives. In the event that an odd number of members are to be elected, the House of Representatives shall select the additional nominee. In 1973 and every four years thereafter, the Senate shall elect at least one woman and one member of a minority race and the House of Representatives shall elect at least one member of the political party to which the largest minority of the members of the General Assembly belong. In 1975 and every four years thereafter, the Senate shall elect at least one member of the political party to which the largest minority of the members of the General Assembly belong and the House of Representatives shall elect at least one woman and one member of a minority race.

(e) Of the eight members elected every two years, at least one shall be a woman, at least one other member shall be a member of a minority race, and at least one other member shall be a member of the political party to which the largest minority of the members of the General Assembly belong. In subsequent elections to the Board, the General Assembly shall maintain at least these minimum proportions among the members of the Board. (1971, c. 1244, s. 1.)

§ 116-7. General provisions concerning members of the Board of Governors.—(a) All members of the Board of Governors shall be selected for their interest in, and their ability to contribute to the fulfillment of, the purposes of the Board of Governors, and all members shall be deemed members-at-large, charged with the responsibility of serving the best interests of the whole State. In electing members, the objective shall be to obtain the services of the best quali-

fied citizens of the State, taking into consideration the need for representation on the Board by the different races, sexes and political parties.

(b) From and after July 1, 1973, no member of the General Assembly or officer or employee of the State or of any constituent institution or spouse of any such member, officer or employee may be a member of the Board of Governors. Any member of the Board of Governors who is elected or appointed to the General Assembly or who becomes an officer or employee of the State or of any constituent institution or whose spouse is elected or appointed to the General Assembly or becomes such officer or employee shall be deemed thereupon to resign from his membership on the Board of Governors.

(c) Whenever any vacancy shall occur in the elected membership of the Board of Governors, it shall be the duty of the secretary of the Board to inform the General Assembly of the existence of the vacancy, and the General Assembly at its next regular session shall elect a person to fill the unexpired term. Whenever a member shall fail, for any reason other than ill health or service in the interest of the State or nation, to be present for four successive regular meetings of the Board, his place as a member shall be deemed vacant. (1971, c. 1244, s. 1.)

§ **116-8. Chairman, vice-chairman and secretary.**—The Board of Governors shall elect from its membership for two-year terms, and until their successors have been elected and qualified, a chairman, a vice-chairman and a secretary. No person may serve as chairman more than four years in succession. (1971, c. 1244, s. 1.)

§ **116-9. Meetings of Board of Governors.**—The Board of Governors shall meet at stated times established by the Board, but not less frequently than six times a year. A quorum for the conduct of business shall consist of a majority of the members. (1971, c. 1244, s. 1.)

§ **116-10. Committees.**—The Board of Governors shall have power to appoint from its own number committees which shall be clothed with such powers as the Board of Governors may confer. No committee may reverse a decision concerning policy taken by the Board of Governors at a regular meeting. (1971, c. 1244, s. 1.)

§ **116-11. Powers and duties generally.**—The powers and duties of the Board of Governors shall include the following:

(1) The Board of Governors shall plan and develop a coordinated system of higher education in North Carolina. To this end it shall govern the 16 constituent institutions, subject to the powers and responsibilities given in this Article to the boards of trustees of the institutions, and to this end it shall maintain close liaison with the State Board of Education, the Department of Community Colleges and the private colleges and universities of the State. The Board, in consultation with representatives of the State Board of Education and of the private colleges and universities, shall prepare and from time to time revise a long-range plan for a coordinated system of higher education, supplying copies thereof to the Governor, the members of the General Assembly, the Advisory Budget Commission and the institutions. State-wide federal or State programs that provide aid to institutions or students of post-secondary education through a State agency, except those related exclusively to the community college system, shall be administered by the Board pursuant to any requirement of State or federal statute in order to insure that all activities are consonant with the State's long-range plan for higher education.

(2) The Board of Governors shall be responsible for the general determination, control, supervision, management and governance of all affairs of the constituent institutions. For this purpose the Board may adopt such policies and regulations as it may deem wise. Subject to applicable State law and to the terms and conditions of the instruments under which property is acquired, the Board of Governors may acquire, hold, convey or otherwise dispose of, invest and reinvest any and all real and personal property, with the exception of any property that may be held by trustees of institutional endowment funds under the provisions of G.S. 116-36 or that may be held, under authority delegated by the Board of Governors, either by a board of trustees or by trustees of any other endowment or trust fund.

(3) The Board shall determine the functions, educational activities and academic programs of the constituent institutions. The Board shall also determine the types of degrees to be awarded. The powers herein given to the Board shall not be restricted by any provision of law assigning specific functions or responsibilities to designated institutions, the powers herein given superseding any such provisions of law. The Board, after adequate notice and after affording the institutional board of trustees an opportunity to be heard, shall have authority to withdraw approval of any existing program if it appears that the program is unproductive, excessively costly or unnecessarily duplicative.

(4) The Board of Governors shall elect officers as provided in G.S. 116-14. Subject to the provisions of section 18 of this act [Session Laws 1971, Chapter 1244, section 18], the Board shall also elect, on nomination of the President, the chancellor of each of the constituent institutions and fix his compensation. The President shall make his nomination from a list of not fewer than two names recommended by the institutional board of trustees.

(5) The Board of Governors shall, on recommendation of the President and of the appropriate institutional chancellor, appoint and fix the compensation of all vice-chancellors, senior academic and administrative officers and persons having permanent tenure.

(6) The Board shall approve the establishment of any new publicly supported institution above the community college level.

(7) The Board shall set tuition and required fees at the institutions, not inconsistent with actions of the General Assembly.

(8) The Board shall set enrollment levels of the constituent institutions.

(9) a. The Board of Governors shall develop, prepare and present to the Governor, the Advisory Budget Commission and the General Assembly a single, unified recommended budget for all of public senior higher education. The recommendations shall consist of requests in three general categories: (i) funds for the continuing operation of each constituent institution, (ii) funds for salary increases for employees exempt from the State Personnel Act and (iii) funds requested without reference to constituent institutions, itemized as to priority and covering such areas as new programs and activities, expansions of programs and activities, increases in enrollments, increases to accommodate internal shifts and categories of persons served, capital improvements, improvements in levels of operation and increases to remedy deficiencies, as well as other areas.

b. Funds for the continuing operation of each constituent institution shall be appropriated directly to the institution. Funds for salary increases for employees exempt from the State Personnel

Act shall be appropriated to the Board in a lump sum for allocation to the institutions. Funds for the third category in paragraph a of this subdivision shall be appropriated to the Board in a lump sum. The Board shall allocate to the institutions any funds appropriated, said allocation to be made in accordance with the Board's schedule of priorities; provided, however, that when both the Board and the Advisory Budget Commission deem it to be in the best interest of the State, funds in the third category may be allocated, in whole or in part, for other items within the list of priorities or for items not included in the list.

c. The Advisory Budget Commission may, on recommendation of the Board, authorize transfer of appropriated funds from one institution to another to provide adjustments for over- or under-enrollment or may make any other adjustments among institutions that would provide for the orderly and efficient operation of the institutions.

(10) The Board shall collect and disseminate data concerning higher education in the State. To this end it shall work cooperatively with the Department of Community Colleges and shall seek the assistance of the private colleges and universities. It may prescribe for the constituent institutions such uniform reporting practices and policies as it may deem desirable.

(11) The Board shall assess the contributions and needs of the private colleges and universities of the State and shall give advice and recommendations to the General Assembly to the end that the resources of these institutions may be utilized in the best interest of the State. All requests by private institutions of higher education for State assistance to the institutions or to students attending them shall be submitted first to the Board for review and recommendation before being presented to any other State agency or to the General Assembly.

(12) The Board shall give advice and recommendations concerning higher education to the Governor, the General Assembly, the Advisory Budget Commission and the boards of trustees of the institutions.

(13) The Board may delegate any part of its authority over the affairs of any institution to the board of trustees or, through the President, to the chancellor of the institution in any case where such delegation appears necessary or prudent to enable the institution to function in a proper and expeditious manner. Any delegation of authority may be rescinded by the Board at any time in whole or in part.

(14) The Board shall possess all powers not specifically given to institutional boards of trustees. (1971, c. 1244, s. 1.)

Editor's Note. — Session Laws 1971, c. 1244, s. 18, provides:

"Sec. 18. All policies, rules and regulations adopted and actions taken prior to July 1, 1972, by the boards of trustees of the "constituent institutions," as said term is defined in G.S. 116-2, as rewritten by this act, or by the board of trustees of the University of North Carolina pertaining to any of its six institutions, shall be effective on and after July 1, 1972, as to the respective institutions, except as modified by this act or by subsequent action of the Board of Governors of the University of North Carolina or by the institutional boards of trustees. The merger of an institution into the University of North Carolina under this act shall not impair any term of office, appointment or employment of any administrative, instructional or other personnel of the institution. Effective July 1, 1972, the title president and vice-president of each institution shall be changed to chancellor and vice-chancellor and the tenures of persons occupying these positions shall continue subject to the other provisions of this act. As soon after July 1, 1972, as the Board of Governors can reasonably do so, it shall adopt, for itself and all constituent institutions, a code based upon the code of the University of North Carolina as it may exist prior to July 1, 1972, but modified in such ways as the Board of Governors may deem desirable in order to take into account the practices and needs of all the constituent institutions."

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§ **116-11.1**: Transferred to § 116-37 by Session Laws 1971, c. 1244, s. 6, effective July 1, 1972.

§ **116-12. Property and obligations.**—All property of whatsoever kind and all rights and privileges held by the Board of Higher Education and by the boards of trustees of Appalachian State University, East Carolina University, Elizabeth City State University, Fayetteville State University, North Carolina Agricultural and Technical State University, North Carolina Central University, North Carolina School of the Arts, Pembroke State University, Western Carolina University and Winston-Salem State University, as said property, rights and privileges may exist immediately prior to July 1, 1972, shall be, and hereby are, effective July 1, 1972, transferred to and vested in the Board of Governors of the University of North Carolina. All obligations of whatsoever kind of the Board of Higher Education and of the boards of trustees of Appalachian State University, East Carolina University, Elizabeth City State University, Fayetteville State University, North Carolina Agricultural and Technical State University, North Carolina Central University, North Carolina School of the Arts, Pembroke State University, Western Carolina University and Winston-Salem State University, as said obligations may exist immediately prior to July 1, 1972, shall be, and the same hereby are, effective July 1, 1972, transferred to and assumed by the Board of Governors of the University of North Carolina. Any property, real or personal, held immediately prior to July 1, 1972, by a board of trustees of a constituent institution for the benefit of that institution or by the University of North Carolina for the benefit of any one or more of its six institutions, shall, from and after July 1, 1972, be kept separate and distinct from other property held by the Board of Governors, shall continue to be held for the benefit of the institution or institutions that were previously the beneficiaries and shall continue to be held subject to the provisions of the respective instruments, grants or other means or process by which any property right was acquired. In case a conflict arises as to which property, rights or privileges were held for the beneficial interest of a particular institution, or as to the extent to which such property, rights or privileges were so held, the Board of Governors shall determine the issue, and the determination of the Board shall constitute final administrative action. Nothing in this Article shall be deemed to increase or diminish the income, other revenue or specific property which is pledged, or otherwise hypothecated, for the security or liquidation of any obligations, it being the intent that the Board of Governors shall assume said obligations without thereby either enlarging or diminishing the rights of the holders thereof. (1971, c. 1244, s. 1.)

§ **116-13. Powers of Board regarding property subject to general law.**—The power and authority granted to the Board of Governors with regard to the acquisition, operation, maintenance and disposition of real and personal property shall be subject to, and exercised in accordance with, the provisions of Chapters 143 and 146 of the General Statutes. (1971, c. 1244, s. 1.)

§ **116-14. President and staff.**—(a) The Board shall elect a President of the University of North Carolina. He shall be the chief administrative officer of the University.

(b) The President shall be assisted by such professional staff members as may be deemed necessary to carry out the provisions of this Article, who shall be elected by the Board on nomination of the President. The Board shall fix the compensation of the staff members it elects. These staff members shall include a senior vice-president and such other vice-presidents and officers as may be deemed desirable. Provision shall be made for persons of high competence and strong professional experience in such areas as academic affairs, public service programs, business and financial affairs, institutional studies and long-range planning, stu-

dent affairs, research, legal affairs, health affairs and institutional development, and for State and federal programs administered by the Board. In addition, the President shall be assisted by such other employees as may be needed to carry out the provisions of this Article, who shall be subject to the provisions of Chapter 126 of the General Statutes. The staff complement shall be established by the Board on recommendation of the President to insure that there are persons on the staff who have the professional competence and experience to carry out the duties assigned and to insure that there are persons on the staff who are familiar with the problems and capabilities of all of the principal types of institutions represented in the system.

(c) The President, with the approval of the Board, shall appoint an advisory committee composed of representative presidents of the private colleges and universities and may appoint such additional advisory committees as are deemed necessary or desirable. (1971, c. 1244, s. 1.)

§ 116-15. **Licensing of nonpublic educational institutions; regulation of degrees.**—(a) No nonpublic educational institution created or established in this State after April 15, 1923, by any person, firm, organization, or corporation shall have power or authority to confer degrees upon any person except as provided in this section. The Board of Governors shall call to the attention of the Attorney General, for such action as he may deem appropriate, any institution failing to comply with the requirements of this section.

(b) The Board of Governors, under such standards as it shall establish, may issue its license to confer degrees in such form as it may prescribe to a nonpublic educational institution established in this State after April 15, 1923, by any person, firm, organization, or corporation; but no nonpublic educational institution established in the State subsequent to that date shall be empowered to confer degrees unless it has income sufficient to maintain an adequate faculty and equipment sufficient to provide adequate means of instruction in the arts and sciences, or in any other recognized field or fields of learning or knowledge.

(c) All nonpublic educational institutions licensed under this section shall file such information with the President as the Board of Governors may direct, and the said Board may evaluate any nonpublic educational institution applying for a license to confer degrees under this section. If any such nonpublic educational institution shall fail to maintain the required standards, the Board shall revoke its license to confer degrees, subject to a right of review of this decision in the manner provided in Article 33 of Chapter 143 of the General Statutes.

(d) The State Board of Education shall have sole authority to administer and supervise, at the State level, the system of community colleges, technical institutes, and industrial education centers provided in Chapter 115A of the General Statutes, and shall regulate the granting of appropriate awards, two-year degrees, and marks of distinction by those institutions. (1971, c. 1244, s. 1.)

§ 116-16. **Tax exemption.**—The lands and other property belonging to the University of North Carolina shall be exempt from all kinds of public taxation. (Const., art. 5, s. 5; 1789, c. 306, s. 3, P. R.; R. S., vol. 2, p. 428; Code, s. 2614; Rev., s. 4262; C. S., s. 5783; 1971, c. 1244, s. 2.)

Editor's Note. — This section was formerly § 116-19. It was transferred to its present position by Session Laws 1971, c. 1244, s. 2, effective July 1, 1972. The 1971 act also substituted "University of North Carolina" for "corporation."

§ 116-17. **Purchase of annuity or retirement income contracts for faculty members, officers and employees.**—Notwithstanding any provision of law relating to salaries and/or salary schedules for the pay of faculty members, administrative officers, or any other employees of universities, colleges and institutions of higher learning as named and set forth in this Article, and other State

agencies qualified as educational institutions under § 501(c)(3) of the United States Internal Revenue Code, the governing boards of any such universities, colleges and institutions of higher learning may authorize the business officer or agent of same to enter into annual contracts with any of the faculty members, administrative officers and employees of said institutions of higher learning which provide for a reduction in salary below the total established compensation or salary schedule for a term of one year. The financial officer or agent shall use the funds derived from the reduction in the salary of the faculty member, administrative officer or employee to purchase a nonforfeitable annuity or retirement income contract for the benefit of said faculty member, administrative officer or employee of said universities, colleges and institutions of higher learning. A faculty member, administrative officer or employee who has agreed to a salary reduction for this purpose shall not have the right to receive the amount of the salary reduction in cash or in any other way except the annuity or retirement income contract. Funds used for the purchase of an annuity or retirement income contract shall not be in lieu of any amount earned by the faculty member, administrative officer or employee before his election for a salary reduction has become effective. The agreement for salary reductions referred to herein shall be effected under any necessary regulations and procedures adopted by the various governing boards of the various institutions of higher learning and on forms prepared by said governing boards. Notwithstanding any other provision of this section or law, the amount by which the salary of any faculty member, administrative officer or employee is reduced pursuant to this section shall not be excluded, but shall be included, in computing and making payroll deductions for social security and retirement system purposes, and in computing and providing matching funds for retirement system purposes. (1965, c. 365; 1971, c. 1244, s. 3.)

Editor's Note. — This section was formerly § 116-46.2. It was transferred to its present position by Session Laws 1971, c. 1244, s. 3, effective July 1, 1972. The 1971 act also substituted "this Article" for "articles 1 and 2 of chapter 116 of the General Statutes, as amended," and "governing boards" for "board of trustees" in the first sentence and substituted "governing boards" for "boards of trustees" in two places in the next-to-last sentence.

§ 116-18. Information Center established.—The Board of Governors of the University of North Carolina, with the cooperation of other concerned organizations, shall establish, as a function of the Board, an Educational Opportunities Information Center to provide information and assistance to prospective college and university students and to the several institutions, both public and private, on matters regarding student admissions, transfers and enrollments. The public institutions shall cooperate with the Center by furnishing such nonconfidential information as may assist the Center in the performance of its duties. Similar cooperation shall be requested of the private institutions in the State.

An applicant for admission to an institution who is not offered admission may request that the institution send to the Center appropriate nonconfidential information concerning his application. The Center may, at its discretion and with permission of the applicant, direct the attention of the applicant to other institutions and the attention of other institutions to the applicant. The Center is authorized to conduct such studies and analyses of admissions, transfers and enrollments as may be deemed appropriate. (1971, c. 1086, s. 1; c. 1244, s. 4.)

Editor's Note.—This section was enacted by Session Laws 1971, c. 1086, s. 1, effective Oct. 1, 1971, as subdivision (9) of § 116-158. It was transferred to its present position by Session Laws 1971, c. 1244, s. 4, effective July 1, 1972. Chapter 1244 also inserted "of Governors of the University of North Carolina" near the beginning of the section.

§ 116-19. Contracts with private institutions to aid North Carolina students.—In order to encourage and assist private institutions to continue to educate North Carolina students, the Board of Governors of the University of North Carolina is hereby authorized to enter into contracts with the institutions under the terms of which an institution receiving any funds that may be appropriated pursuant to this section would agree that, during any fiscal year in which such funds were received, the institution would provide and administer scholarship funds for needy North Carolina students in an amount at least equal to the amount paid to the institution, pursuant to this section, during the fiscal year. Under the terms of the contracts the Board of Governors of the University of North Carolina would agree to pay to the institutions, subject to the availability of funds, a fixed sum of money for each North Carolina student enrolled at the institutions for the regular academic year, said sum to be determined by appropriations that might be made from time to time by the General Assembly pursuant to this section. Funds appropriated pursuant to this section shall be paid by the Department of Administration to an institution upon recommendation of the Board of Governors of the University of North Carolina and on certification of the institution showing the number of North Carolina students enrolled at the institution as of October 1 of any year for which funds may be appropriated. (1971, c. 744, s. 1; c. 1244, s. 5.)

Editor's Note.—This section was enacted by Session Laws 1971, c. 744, s. 1, and codified as § 116-158.1. It was transferred to its present position by Session Laws 1971, c. 1244, s. 5, effective July 1, 1972. Chapter 1244 also substituted "Board of Governors of the University of North Carolina" for "Board of Higher Education" in three places in the section. For the section formerly numbered § 116-19, see § 116-16.

§ 116-20. Scholarship and contract terms; base period.—In order to encourage and assist private institutions to educate additional numbers of North Carolinians, the Board of Governors of the University of North Carolina is hereby authorized to enter into contracts with the institutions under the terms of which an institution receiving any funds that may be appropriated pursuant to this section would agree that, during any fiscal year in which such funds were received, the institution would provide and administer scholarship funds for needy North Carolina students in an amount at least equal to the amount paid to the institution, pursuant to this section, during the fiscal year. Under the terms of the contracts the Board of Governors of the University of North Carolina would agree to pay to the institutions, subject to the availability of funds, a fixed sum of money for each North Carolina student enrolled as of October 1 of any year for which appropriated funds may be available, over and above the number of North Carolina students enrolled in that institution as of October 1, 1970, which shall be the base date for the purpose of this calculation. Funds appropriated pursuant to this section shall be paid by the Department of Administration to an institution upon recommendation of the Board of Governors of the University of North Carolina and on certification of the institution showing the number of North Carolina students enrolled at the institution as of October 1 of any year for which funds may be appropriated over the number enrolled on the base date. In the event funds are appropriated for expenditure pursuant to this section and funds are also appropriated, for the same fiscal year, for expenditure pursuant to G.S. 116-19, students who are enrolled at an institution in excess of the number enrolled on the base date may be counted under this section for the purpose of calculating the amount to be paid to the institution, but the same students may not also be counted under G.S. 116-19, for the purpose of calculating payment to be made under that section. (1971, c. 744, s. 2; c. 1244, s. 5.)

Editor's Note.—This section was enacted by Session Laws 1971, c. 744, § 2, and codified as § 116-158.2. It was transferred to its present position by Session Laws 1971, c. 1244, s. 5, effective July 1, 1972. Chapter 1244 also substituted "Board of Governors of the University of North Carolina" for "Board of Higher Education" in three places and "116-19" for "116-158.1" in two places in the section.

Former § 116-20 was transferred to § 116A-1 by Session Laws 1971, c. 1135, s. 2, effective July 1, 1971.

§ **116-21. Contract forms; reports; audits; regulations.** — The Board of Governors of the University of North Carolina is authorized to prescribe the form of the contracts to be executed under G.S. 116-19 and 116-20, to require of the institutions such reports, statements and audits as the Board may deem necessary or desirable in carrying out the purposes of G.S. 116-19 through 116-22 and to make any rules or regulations that will, in the opinion of the Board, help to achieve the purposes of G.S. 116-19 through 116-22. (1971, c. 744, s. 3; c. 1244, s. 5.)

Editor's Note.—This section was enacted by Session Laws 1971, c. 744, s. 3, and codified as § 116-158.3. It was transferred to its present position by Session Laws 1971, c. 1244, s. 5, effective July 1, 1972. Chapter 1244 also substituted "Board of Governors of the University of North Carolina" for "Board of Higher Education" and substituted "116-19 and 116-20" for "116-158.1 and 116-158.2" and, in two places, "116-19 through 116-22" for "116-158.1 through 116-158.4."

Former § 116-21 was transferred to § 116A-2 by Session Laws 1971, c. 1135, s. 2, effective July 1, 1971.

§ **116-22. Definitions applicable to §§ 116-19 to 116-21.**—As used in G.S. 116-19 through 116-22:

(1) "Institution" shall mean an educational institution located in this State that is not owned or operated by the State of North Carolina or by an agency or political subdivision of the State or by any combination thereof; that is accredited by the Southern Association of Colleges and Schools under the standards of the College Delegate Assembly of said Association and that is not a seminary, Bible school, Bible college or similar religious institution.

(2) "Student" shall mean a resident of North Carolina in accordance with definitions of residency that may from time to time be adopted by the Board of Governors of the University of North Carolina and published in the residency manual of said Board; and a person who has not received a bachelor's degree, or qualified therefor, and who is otherwise classified as an undergraduate under such regulations as the Board of Governors of the University of North Carolina may promulgate. The enrollment figures required by G.S. 116-19 through 116-22 shall be the number of full-time-equivalent students as computed under regulations prescribed by the Board of Governors of the University of North Carolina. (1971, c. 744, s. 4; c. 1244, s. 5.)

Editor's Note.—This section was enacted by Session Laws 1971, c. 744, s. 4, and codified as § 116-158.4. It was transferred to its present position by Session Laws 1971, c. 1244, s. 5, effective July 1, 1972. Chapter 1244 also substituted "116-19 through 116-22" for "116-158.1 through 116-158.4" in the opening paragraph and in the second sentence of subdivision (2) and substituted "Board of Governors of the University of North Carolina" for "North Carolina Board of Higher Education" in the first sentence of subdivision (2) and for "Board of Higher Education" in the first and second sentences of subdivision (2).

Former § 116-22 was transferred to § 116A-3 by Session Laws 1971, c. 1135, s. 2, effective July 1, 1971.

§ **116-26**: Transferred to § 116-43 by Session Laws 1971, c. 1244, s. 17, effective July 1, 1972.

§ **116-27**: Repealed by Session Laws 1971, c. 1244, s. 1, effective July 1, 1972.

§ **116-30**: Transferred to § 116-40 by Session Laws 1971, c. 1244, s. 9, effective July 1, 1972.

Part 3. Constituent Institutions.

§ **116-31. Membership of the boards of trustees.**—(a) All persons who, as of June 30, 1972, are serving as trustees of the regional universities and of the North Carolina School of the Arts, except those who may have been elected to the Board of Governors, shall continue to serve for one year beginning July 1, 1972, and the terms of all such trustees shall continue for the period of one year.

(b) Effective July 1, 1972, a separate board of trustees shall be created for each of the following institutions: North Carolina State University at Raleigh, the University of North Carolina at Asheville, the University of North Carolina at Chapel Hill, the University of North Carolina at Charlotte, the University of North Carolina at Greensboro, and the University of North Carolina at Wilmington. For the period commencing July 1, 1972, and ending June 30, 1973, each such board shall be constituted as follows:

(1) Twelve or more persons elected prior to July 1, 1972, by and from the membership of the board of trustees of the University of North Carolina, and

(2) The president of the student government of the institution, ex officio.

(c) If any vacancy should occur in any board of trustees during the year beginning July 1, 1972, the Governor may appoint a person to serve for the balance of the year.

(d) Effective July 1, 1973, each of the 16 constitutent institutions shall have a board of trustees composed of 13 persons chosen as follows:

(1) Eight elected by the Board of Governors,

(2) Four appointed by the Governor, and

(3) The president of the student government ex officio.

(e) From and after July 1, 1973, the term of office of all trustees, except the ex officio member, shall be four years, commencing on July 1 of odd-numbered years. In every odd-numbered year the Board of Governors shall elect four persons to each board of trustees and the Governor shall appoint two persons to each such board.

(f) In electing boards of trustees to serve commencing July 1, 1973, the Board of Governors shall designate four persons for four-year terms and four for two-year terms. The Governor, in making appointments of trustees to serve commencing July 1, 1973, shall designate two persons for four-year terms and two for two-year terms.

(g) From and after July 1, 1973, any person who has served two full four-year terms in succession as a member of a board of trustees shall, for a period of one year, be ineligible for election or appointment to the same board but may be elected or appointed to the board of another institution.

(h) From and after July 1, 1973, no member of the General Assembly or officer or employee of the State or of any constituent institution or spouse of any such member, officer or employee shall be eligible for election or appointment as a trustee. Any trustee who is elected or appointed to the General Assembly or who becomes an officer or employee of the State or of any constituent institution or whose spouse is elected or appointed to the General Assembly or becomes such officer or employee shall be deemed thereupon to resign from his membership on the board of trustees.

(i) No person may serve simultaneously as a member of a board of trustees and as a member of the Board of Governors. Any trustee who is elected or appointed to the Board of Governors shall be deemed to resign as a trustee effective as of the date that his term commences as a member of the Board of Governors.

(j) From and after July 1, 1973, whenever any vacancy shall occur in the membership of a board of trustees among those appointed by the Governor, it shall be the duty of the secretary of the board to inform the Governor of the existence of such vacancy, and the Governor shall appoint a person to fill the unexpired term,

and whenever any vacancy shall occur among those elected by the Board of Governors, it shall be the duty of the secretary of the board to inform the Board of Governors of the existence of the vacancy, and the Board of Governors shall elect a person to fill the unexpired term. Whenever a member shall fail, for any reason other than ill health or service in the interest of the State or nation, to be present for three successive regular meetings of a board of trustees, his place as a member shall be deemed vacant. (1971, c. 1244, s. 1.)

Revision of Portions of Article. — See same catchline under § 116-1.

§ 116-32. Officers and meetings of the boards of trustees.—At the first meeting after June 30 of each year each board of trustees shall elect from its membership a chairman, a vice-chairman and a secretary. Each board of trustees shall hold not less than three regular meetings a year and may hold such additional meetings as may be deemed desirable. (1971, c. 1244, s. 1.)

§ 116-33. Powers and duties of the boards of trustees.—Each board of trustees shall promote the sound development of the institution within the functions prescribed for it, helping it to serve the State in a way that will complement the activities of the other institutions and aiding it to perform at a high level of excellence in every area of endeavor. Each board shall serve as advisor to the Board of Governors on matters pertaining to the institution and shall also serve as advisor to the chancellor concerning the management and development of the institution. The powers and duties of each board of trustees, not inconsistent with other provisions of this Article, shall be defined and delegated by the Board of Governors. (1971, c. 1244, s. 1.)

§ 116-34. Duties of chancellor of institution. — (a) The chancellor shall be the administrative and executive head of the institution and shall exercise complete executive authority therein, subject to the direction of the President. He shall be responsible for carrying out policies of the Board of Governors and of the board of trustees. As of June 30 of each year he shall prepare for the Board of Governors and for the board of trustees a detailed report on the operation of the institution for the preceding year.

(b) It shall be the duty of the chancellor to attend all meetings of the board of trustees and to be responsible for keeping the board of trustees fully informed on the operation of the institution and its needs.

(c) It shall be the duty of the chancellor to keep the President, and through him the Board of Governors, fully informed concerning the operations and needs of the institution. Upon request, he shall be available to confer with the President or with the Board of Governors concerning matters that pertain to the institution.

(d) Subject to policies prescribed by the Board of Governors and by the board of trustees, the chancellor shall make recommendations for the appointment of personnel within the institution and for the development of educational programs. (1971, c. 1244, s. 1.)

§ 116-35. Electric power plants, campus school, etc. — Institutions operating electric power plants and distribution systems as of October 30, 1971 are authorized to continue such operation and, after furnishing power to the institution, to sell any excess current to the people of the community at a rate or rates approved by the Utilities Commission. Any net profits derived from the operation, or any proceeds derived from the lease or sale, of such power plants and distribution systems shall be paid into the permanent endowment fund held for the institution as provided for in G.S. 116-36. Institutions operating or authorized to operate, as of October 30, 1971, water or sewer distribution systems, may continue to do so. Each of the institutions now operating a campus laboratory or demonstration school may continue to do so under the presently existing plan of operation, consistent with the appropriations made therefor. The provisions of this section shall not apply to the University Enterprises of the University of North Carolina at Chapel Hill, which shall continue to be governed in all respects

as provided in Chapters 634 and 723 of the Session Laws of 1971, G.S. 116-41.1 through 116-41.12, and other applicable legislation. (1971, c. 1244, s. 1.)

Editor's Note. — Session Laws 1971, c. 634 amended §§ 62-3(23) and 116-41.2. Session Laws 1971, c. 723 was not codified.

§ **116-36. Endowment fund.**—(a) Each board of trustees is authorized to establish and maintain, pursuant to such terms and conditions as the Board of Governors of the University of North Carolina may from time to time prescribe, a permanent endowment fund for the institution.

(b) Such board of trustees may appoint an investment board to be known as "The Board of Trustees of the Endowment Fund of ....." (here shall be inserted the name of the institution), which board of trustees of the endowment fund is hereby created an agency of the Board of Governors of the University of North Carolina with the powers and duties prescribed in this section. The board of trustees of the endowment fund shall consist of five members, including the chairman of the board of trustees of the institution, the chancellor of the institution and three other persons, not necessarily members of the board of trustees of the institution, to be chosen by the board of trustees of the institution, subject to confirmation by the Board of Governors of the University of North Carolina. The three elected members shall serve for terms prescribed by the Board of Governors of the University of North Carolina.

(c) The chairman of the board of trustees of the institution shall also be the chairman of the board of trustees of the endowment fund.

(d) The trustees of said endowment fund may receive gifts, donations, and bequests, may in their discretion retain such in the form in which they are made, and may use the same as a permanent endowment fund. Said trustees may retain in such permanent endowment fund any other moneys or securities of any kind that may come to them from the Board of Governors of the University of North Carolina or that may come to the trustees of the endowment fund from any other source, excepting always the moneys received from State appropriations, and from tuition, fees, and the like, collected from students and used for the general operation of the institution. The trustees of the endowment fund shall have power to sell any property, real or personal, of the fund, at either public or private sale, and in doing so they shall not be subject to the provisions of Chapters 143 and 146 of the General Statutes.

(e) The trustees of the endowment fund shall be responsible for the prudent investment of the fund, in the exercise of their sound discretion, without regard to any statute or rule of law relating to the investment of funds by fiduciaries.

(f) The principal of said endowment fund shall be kept intact and only the income therefrom may be expended. The trustees of the endowment fund shall determine what is income and what is principal.

(g) It is not the intent that the income from such endowment fund shall take the place of State appropriations or any part thereof but that it shall supplement the State appropriations to the end that the institution may improve and increase its functions, may enlarge its areas of service and may become more useful to a greater number of people. All expenditures of moneys from the endowment fund shall in all cases be approved by the Board of Governors of the University of North Carolina, acting with the advice of the board of trustees of the institution, and expended under the direction of the Board of Governors. Funds from the endowment fund shall not be expended for a purpose which will impose a financial burden on the State of North Carolina without first securing the approval of the Advisory Budget Commission.

(h) The Board of Governors of the University of North Carolina shall establish standards for such scholarships as may be awarded from proceeds of said endowment fund and may change or alter such standards from time to time.

(i) Nothing in this section shall be construed to prevent the trustees of the endowment fund from receiving gifts, donations and bequests and from using the same for such lawful purposes as the donor or donors designate, subject always to the approval of the Board of Governors of the University of North Carolina, and subject, further, to the approval of the Advisory Budget Commission if the expenditure of funds would impose a financial burden on the State of North Carolina. (1971, c. 1244, s. 1.)

§ 116-37. North Carolina Memorial Hospital board of directors; administration of hospital.—(a) Composition.—The Board of Governors of the University of North Carolina is hereby directed to create a board of directors for the North Carolina Memorial Hospital consisting of 12 members of which nine shall be appointed by the consolidated University Governors. Three members ex officio of said board shall be the University of North Carolina Vice-Chancellor for Health Sciences, University of North Carolina Vice-Chancellor for Business and Finance, and the Dean of the University of North Carolina Medical School, or successors to these offices under other titles with similar responsibilities. Nine members shall be appointed from the business and professional public-at-large, none of whom shall be Governors of the University, and, thereafter, the nine appointive members shall select one of their number to serve as chairman. Members of this board shall include, but not be limited to, persons with special competence in business management, hospital administration, and medical practice not affiliated with University faculty. Four members shall be appointed for three-year terms and five members for five-year terms. All subsequent appointments shall be for five-year terms. Board member vacancies shall be filled by the Governors for the unexpired term. The Governors may remove any member for cause. Board members, other than ex officio members, shall each receive such per diem and necessary travel and subsistence expenses while engaged in the discharge of their official duties as is provided by law for members of State boards and commissions generally.

(b) Meetings and Powers of Board.—The board of directors shall meet at least every 60 days and may hold special meetings at any time and place within the State at the call of its chairman. The board of directors shall make rules, regulations, and policies governing the management and operation of the North Carolina Memorial Hospital, consistent with basic State statutes and procedures, to meet the goals of education, research, patient care, and community service. The board's action on matters within its jurisdiction are [is] final, except that appeals may be made, in writing, to the Board of Governors with copy of appeal to the University administration. The board of directors shall elect and may remove the director of the hospital. The board of directors may enter into formal agreements with the University of North Carolina at Chapel Hill, Division of Health Sciences, with respect to the provision of clinical experience for students and may also enter into formal agreements with the University of North Carolina at Chapel Hill for the provision of maintenance and supporting services needed by the hospital.

(c) Director of Hospital.—The executive head of the North Carolina Memorial Hospital shall be the director of the hospital, who shall be appointed by the board of directors to serve at its pleasure. The director shall administer the affairs of the hospital subject to the duly adopted policies, rules, and regulations of the board of directors, including the appointment, promotion, demotion, and discharge of all hospital personnel. The director of the hospital shall report to the board of directors quarterly or more often as required. The director will serve as secretary to the board of directors.

(d) Hospital Personnel. — The hospital shall establish a personnel office for personnel administration independent of the central personnel office of the University of North Carolina at Chapel Hill.

(e) Hospital Finances.—The hospital shall be subject to the provisions of the Executive Budget Act. There shall be established a hospital business and budget office to administer the budget and financial affairs of the hospital, independent of the central business and financial office of the University of North Carolina at Chapel Hill, except for cooperative reporting requirements. The director of the hospital, subject to the board of directors, shall be responsible for all aspects of budget preparation, budget execution, and expenditure reporting. Subject to the approval of the Advisory Budget Commission: all hospital operating funds may be budgeted and disbursed through a special fund code, all hospital receipts may be deposited directly to the special fund code; and general fund appropriations for hospital support may be budgeted in a general fund code under a single purpose, "Contribution to Hospital Operations" and be transferable to the special fund operating code as receipts.

(f) Hospital Purchases.—The hospital shall be subject to all provisions of Articles 3 and 3A of Chapter 143 of the General Statutes relating to the Department of Administration, Purchase and Contract Division. There shall be established a hospital purchasing office independent of the central purchasing office of the University of North Carolina at Chapel Hill to handle all purchasing requirements of the hospital. The Purchase and Contract Division may enter into such arrangements with the hospital board of directors as the Division may deem necessary in consideration of the special requirements of the hospital for procurement of certain supplies, materials, equipments and services.

(g) Hospital Property.—The hospital board of directors shall be responsible to the University Board of Governors for the maintenance, operation, and control of the hospital and its grounds. (1971, c. 762, s. 1; c. 1244, s. 6.)

Editor's Note.—This section was enacted by Session Laws 1971, c. 762, s. 1, effective July 1, 1971, and codified as § 116-11.1. It was transferred to its present position by Session Laws 1971, c. 1244, s. 6, effective July 1, 1972. Chapter 1244 also substituted "Governors" for "trustees" throughout the section.

§ **116-37.1**: Transferred to § 116-40.2 by Session Laws 1971, c. 1244, s. 10, effective July 1, 1972.

§ **116-38. Child development research and demonstration center.**—(a) The Chapel Hill city board of education is authorized to enter into long-term agreements and contracts with the University of North Carolina for the purpose of providing for the establishment and operation of a child development research and demonstration center. The board is additionally authorized to lease or transfer title to real and personal property, including buildings and equipment, with or without compensation, to the University for this purpose.

(b) If an elementary school meeting the requirements for accreditation established by the State Board of Education is operated in conjunction with the center such school shall receive financial support through the Chapel Hill city board of education from State, county, and administrative unit sources on the same basis as the other elementary schools in the Chapel Hill city administrative unit.

(c) All personnel of the center whose salaries are paid in whole or part from funds administered by the State Board of Education or the Chapel Hill city board of education, from whatever sources derived, shall be employed only upon the mutual concurrence of the superintendent of the Chapel Hill city administrative unit and the director of the center. (1965, c. 690; 1971, c. 1244, s. 7.)

Editor's Note. — This section was formerly § 116-44.2. It was transferred to its present position by Session Laws 1971, c. 1244, s. 7, effective July 1, 1972.

§ **116-39. Agricultural research stations.** — The agricultural research stations shall be connected with North Carolina State University at Raleigh and shall be controlled by the Board of Governors of the University of North Carolina. (1907, c. 406, s. 12; C. S., s. 5825; 1963, c. 448, s. 9; 1965, c. 213; 1971, c. 1244, s. 8.)

Editor's Note. — This section was formerly § 116-32. It was transferred to its present position by Session Laws 1971, c. 1244, s. 8, effective July 1, 1972. The 1971 act also substituted "Board of Governors of the University of North Carolina" for "board of trustees" at the end of the section.

§§ **116-39.1, 116-39.2**: Repealed by Session Laws 1971, c. 1244, s. 1, effective July 1, 1972.

§ **116-40. Board to accept gifts and congressional donations.**—The Board of Governors shall use, as in its judgment may be proper, for the purposes of the University and for the benefit of education in agriculture and mechanic arts, as well as in furtherance of the powers and duties now or which may hereafter be conferred upon such Board by law, any funds, buildings, lands, laboratories, and other property which may be in its possession. The Board of Governors shall have power to accept and receive on the part of the State, property, personal, real or mixed, and any donations from the United States Congress to the several states and territories for the benefit of agricultural experiment stations or the agricultural and mechanical colleges in connection therewith, and shall expend the amount so received in accordance with the acts of the Congress in relation thereto. (1907, c. 406, s. 6; C. S., s. 5816; 1963, c. 448, s. 8; 1971, c. 1244, s. 9.)

Editor's Note. — This section was formerly § 116-30. It was transferred to its present position by Session Laws 1971, c. 1244, s. 9, effective July 1, 1972. The 1971 act also substituted "Board of Governors" for "board of trustees" in two places in the section.

§ **116-40.1. Land scrip fund.**—The Board of Governors shall own and hold the certificates of indebtedness, amounting to one hundred and twenty-five thousand dollars ($125,000), issued for the principal of the land scrip fund, and the interest thereon shall be paid to them by the State Treasurer semiannually on the first day of July and January in each year for the purpose of aiding in the support of North Carolina State University at Raleigh in accordance with the act of the Congress approved July 2, 1862, entitled, "An act donating public lands to several states and territories which may provide colleges for the benefit of agriculture and mechanic arts." (1907, c. 406, s. 8; C. S., s. 5817; 1963, c. 448, s. 8; 1965, c. 213; 1971, c. 1244, s. 9.)

Editor's Note. — This section was formerly § 116-31. It was transferred to its present position by Session Laws 1971, c. 1244, s. 9, effective July 1, 1972. The 1971 act also substituted "Board of Governors" for "board of trustees" near the beginning of the section.

§ **116-40.2. Authorization to purchase insurance in connection with construction and operation of nuclear reactors.**—In connection with the construction of, assemblying of, use and operation of, any nuclear reactor now owned or hereafter acquired by it, North Carolina State University is hereby authorized and empowered to procure proper insurance against the hazards of explosion, implosion, radiation and any other special hazards unique to nuclear reactors, including nuclear fuel and all other components thereto. Further, North Carolina State University is authorized to enter into agreements with the United States Atomic Energy Commission prerequisite to licensing by that agency of nuclear reactors and to maintain as a part of such agreement or agreements appropriate insurance in amounts required by the Atomic Energy Commission of nuclear reactor licenses.

To the extent that North Carolina State University shall obtain insurance under the provisions of this section, it is hereby authorized and empowered to waive its governmental immunity from liability for damage to property or injury to death to persons arising from the assembling, construction of, use and operation of nuclear reactors. Such immunity shall be deemed to have been waived by the act of obtaining such insurance, but only to the extent that North Carolina State University is indemnified by such insurance.

Any contract of insurance purchased pursuant to this section must be issued by a company or corporation duly licensed and authorized to do a business of insurance in this State except to the extent that such insurance may be furnished by or through a governmental agency created for the purpose of insuring against such hazards or through reinsurance pools or associations established to insure against such hazards.

Any person sustaining property damage or personal injury may sue North Carolina State University for damages for injury arising out of the construction, assembly, use or operation of a nuclear reactor on the campus of the University in the Superior Court of Wake County, and to the extent that the University is indemnified by insurance, it shall be no defense to any such action that the University was engaged in the performance of a governmental or discretionary function of the University. In the case of death alleged to have been caused by the assembly, construction, use or operation of such nuclear reactor, the personal representative of the deceased person may bring such action.

Nothing in this section shall in any way affect any other actions which have been or may hereafter be brought under the Tort Claims Act against North Carolina State University, nor shall the provisions of this section in any way abrogate or replace the provisions of the Workmen's Compensation Act. (1969, c. 1023; 1971, c. 1244, s. 10.)

Editor's Note. — This section was formerly § 116-37.1. It was transferred to its present position by Session Laws 1971, c. 1244, s. 10, effective July 1, 1972.

§ 116-40.3. Participation in sixth-year program of graduate instruction for superintendents, assistant superintendents, and principals of public schools.—Notwithstanding any other provision of law or the regulations of any administrative agency the educational institutions of East Carolina University, North Carolina Central University, North Carolina Agricultural and Technical State University, Appalachian State University, and Western Carolina University, are hereby authorized and shall be eligible colleges to participate in the sixth-year program adopted by the State Board of Education February 4, 1965, to provide a minimum of 60 semester hours of approved graduate, planned, nonduplicating instruction not beyond the masters degree for the education of superintendents, assistant superintendents, and principals of public schools. The satisfactory completion of such program and instruction shall qualify a person for the same certificate and stipend as now provided for other eligible educational institutions. (1965, c. 632; 1967, c. 1038; 1969, c. 114, s. 1; c. 608, s. 1; 1971, c. 1244, s. 10.)

Editor's Note. — This section was formerly § 116-46.3. It was transferred to its present position by Session Laws 1971, c. 1244, s. 10, effective July 1, 1972.

§ 116-40.4. School of medicine authorized at East Carolina University; meeting requirements of accrediting agencies. — The board of trustees of East Carolina University is hereby authorized to create a school of medicine at East Carolina University, Greenville, North Carolina.

The school of medicine shall meet all requirements and regulations of the Council on Medical Education and Hospitals of the American Medical Association, the Association of American Medical Colleges, and other such accrediting agencies whose approval is normally required for the establishment and operation of a two-year medical school. (1965, c. 986, ss. 1, 2; 1967, c. 1038; 1971, c. 1244, s. 10.)

Editor's Note. — This section was formerly § 116-46.4. It was transferred to its present position by Session Laws 1971, c. 1244, s. 10, effective July 1, 1972.

Part 4. Revenue Bonds for Service and Auxiliary Facilities.

Editor's Note.—Former Part 3A was redesignated "Part 4" by Session Laws 1965, c. 31, s. 2, effective July 1, 1965.

§ 116-41.1. **Definitions.**—As used in this part:

(1) "Board" means the Board of Governors of the University of North Carolina;

(2) "Construction" means acquisition, construction, provision, reconstruction, replacement, extension, improvement or betterment, or any combination thereof;

(3) Cost," as applied to a project, shall include the cost of construction (as herein defined), the cost of all labor, materials and equipment, the cost of all lands, property, rights and easements acquired, financing charges, interest prior to and during construction and, if deemed advisable by the board, for one year after completion of construction, cost of plans and specifications, surveys and estimates of cost and/or revenues, cost of engineering and legal services, and all other expenses necessary or incident to such construction, administrative expense and such other expenses, including reasonable provisions for initial operating expenses necessary or incident to the financing herein authorized and a reserve for debt service, and any expense incurred by the board in the issuance of bonds under the provisions of this Part in connection with any of the foregoing items of cost;

(4) "Project" means any undertaking under this Part to acquire, construct or provide service and auxiliary facilities necessary or desirable for the proper and efficient operation of the University Enterprises, either as additions, extensions, improvements or betterments to the University Enterprises or otherwise, including one or more or any combination of any system, facility, plant, works, instrumentality or other property used or useful:

a. In obtaining, conserving, treating or distributing water for domestic, industrial, sanitation, fire protection or any other public or private use;

b. For the collection, treatment, purification or disposal of sewage, refuse or wastes;

c. For the production, generation, transmission or distribution of gas, electricity or heat;

d. In providing communication facilities including telephone facilities;

e. In providing storage, service, repair and duplicating facilities;

f. In improving, extending or adding to the University Enterprises as herein defined; and

g. In providing other service and auxiliary facilities serving the needs of the students, the staff or the physical plant of the University; and including all plants, works, appurtenances, machinery, equipment and properties, both personal and real, used or useful in connection therewith;

and in the case of the telephone, electric and water systems comprising a part of the University Enterprises such additions, extensions, improvements or betterments thereof as may be necessary or desirable, in the discretion of the board, to provide service from such systems, where it may be reasonably made available, within the environs of the University, including, without limitation, areas presently served by the University Enterprises in Orange, Durham and Chatham Counties.

(1971, c. 636.)

(5) "Revenue bonds" or "bonds" means bonds of the University issued by the board to pay the cost, in whole or in part, of any project pursuant to this part and the bond resolution or resolutions of the board; pro-

vided, however, that bonds, issued as a separate series which are stated to mature not later than twenty years from their date may be designated "revenue notes" or "notes";

(6) "Revenues" means the income and receipts derived by or for the account of the University through the charging and collection of service charges;

(7) "Service charges" means rates, fees, rentals or other charges for, or for the right to, the use, occupancy, services or commodities of or furnished by any project, or by any other service or auxiliary facility of the University, including the University Enterprises, any part of the income of which is pledged to the payment of the bonds or the interest thereon;

(8) "University" means the body politic and corporate known and distinguished by the corporate name of the "University of North Carolina" under § 116-3 of the General Statutes;

(9) "University Enterprises" means the following existing facilities, systems, properties, plants, works and instrumentalities located in or near the town of Chapel Hill, North Carolina, presently in the jurisdiction of and operated by the University; the telephone, electric, heating and water systems, the laundry, Carolina Inn, service and repair shops, the duplicating shop, book stores and student supply stores, and rental housing properties for faculty members. (1961, c. 1078, s. 1; 1963, c. 448, s. 16; c. 944, s. 1; 1965, c. 1033, s. 1; 1971, c. 1244, s. 16.)

Cross Reference.—As to revenue bonds for student housing, see §§ 116-175 to 116-185.

Editor's Note.—The first 1963 amendment substituted "at" for "in" preceding the words "Chapel Hill" near the beginning of subdivision (4).

The second 1963 amendment substituted "twenty" for "five" near the end of subdivision (5).

The 1965 amendment substituted "town of Chapel Hill" for "city of Chapel Hill" in subdivision (9) and deleted "storerooms" from, and added "book stores and student supply stores" to, the list of facilities in that subdivision.

The 1971 amendment inserted "and a reserve for debt service" near the end of subdivision (3), deleted "at the University of North Carolina at Chapel Hill, North Carolina" following "provide" and substituted "proper and efficient operation of the University Enterprises" for "students or staff in the operation of the University" in the opening paragraph of subdivision (4) and added all of subdivision (4) following paragraph g.

The second 1971 amendment, effective July 1, 1972, substituted "Board of Governors" for "board of trustees" in subdivision (1).

§ **116-41.2. Powers of Board of Governors generally.**—In addition to the powers which the Board now has, the Board shall have the following powers subject to the provisions of this Part and subject to agreements with the holders of any revenue bonds issued hereunder:

(1) To acquire by gift, purchase or the exercise of the power of eminent domain or to construct, provide, improve, maintain and operate any project or projects;

(2) To borrow money for the construction of any project or projects, and to issue revenue bonds therefor in the name of the University;

(3) To establish, maintain, revise, charge and collect such service charges (free of any control or regulation by any State regulatory body until January 1, 1973, and thereafter only by the North Carolina Utilities Commission) as will produce sufficient revenues to pay the principal of and interest on the bonds and otherwise to meet the requirements of the resolution or resolutions of the Board authorizing the issuance of the revenue bonds.

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(4) To pledge to the payment of any bonds of the University issued hereunder and the interest thereon the revenues of the project financed in whole or in part with the proceeds of such bonds, and to pledge to the payment of such bonds and interest any other revenues, subject to any prior pledge or encumbrance thereof;

(5) To appropriate, apply, or expend in payment of the cost of the project the proceeds of the revenue bonds issued for the project;

(6) To sell, furnish, distribute, rent, or permit, as the case may be, the use, occupancy, services, facilities and commodities of or furnished by any project or any system, facility, plant, works, instrumentalities or properties whose revenues are pledged in whole or in part for the payment of the bonds, and to sell, exchange, transfer, assign or otherwise dispose of any project or any of the University Enterprises or any other service or auxiliary facility or any part of any thereof or interest therein determined by resolution of the Board not to be required for any public purpose by the Board;

(7) To insure the payment of service charges with respect to the telephone, electric and water systems of the University Enterprises, as the same shall become due and payable, the Board may, in addition to any other remedies which it may have:

a. Require reasonable advance deposits to be made with it to be subject to application to the payment of delinquent service charges, and

b. At the expiration of 30 days after any such service charges become delinquent, discontinue supplying the services and facilities of such telephone, electric and water systems.

(8) To retain and employ consultants and other persons on a contract basis for rendering professional, technical or financial assistance and advice in undertaking and carrying out any project and in operating, repairing or maintaining any project or any system, facility, plant, works, instrumentalities or properties whose revenues are pledged in whole or in part for the payment of the bonds; and

(9) To enter into and carry out contracts with the United States of America or this State or any municipality, county or other public corporation and to lease property to or from any person, firm or corporation, private or public, in connection with exercising the powers vested under this Part. (1961, c. 1078, s. 2; 1971, c. 634, s. 2; c. 636; c. 1244, s. 15).

Editor's Note. — The first 1971 amendment added to the language in parentheses in subdivision (3) "until January 1, 1973, and thereafter only by the North Carolina Utilities Commission."

The second 1971 amendment inserted present subdivision (7) and renumbered former subdivisions (7) and (8) as (8) and (9).

The third 1971 amendment, effective July 1, 1972, substituted "Board of Governors" for "board of trustees" in the catchline and capitalized the word "Board" in several places in the section. See § 116-41.1 and the note thereto.

Session Laws 1971, c. 634, s. 3, provides: "In order to provide a period for the development by the University of North Carolina at Chapel Hill of records of the kind which may be required by the North Carolina Utilities Commission, the Utilities Commission shall have no authority in respect to the rates or service charges for the telephone service, electricity or water supplied to the public for compensation from the University Enterprises defined in G.S. 116-41.1(9) until January 1, 1973."

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§ 116-41.3. University authorized to pay service charges; payments deemed revenues.—The University is hereby authorized to pay service charges for, or for the right to, the use, occupancy, services or commodities of or furnished by any project or by any other service or auxiliary facility of the University, including the University Enterprises, and the income and receipts derived from such service charges paid by the University shall be deemed to be revenues under the provisions of this part and shall be applied and accounted for in the same manner as other revenues. (1961, c. 1078. s. 3.)

§ 116-41.4. Bonds authorized; amount limited; form, execution and sale; terms and conditions; use of proceeds; additional bonds; interim receipts or temporary bonds; replacement of lost, etc., bonds; approval or consent for issuance; bonds not debt of State; bond anticipation notes.—The Board is hereby authorized to issue, subject to the approval of the Advisory Budget Commission, at one time or from time to time, revenue bonds of the University for the purpose of undertaking and carrying out any project or projects hereunder; provided, however, that the aggregate principal amount of revenue bonds which the Board is authorized to issue under this section during the biennium ending June 30, 1969, shall not exceed three million five hundred thousand dollars ($3,500,000); provided, further, the Board shall have authority to issue revenue bonds under this section in an additional aggregate principal amount not to exceed three million five hundred thousand dollars ($3,500,000) during the biennium ending June 30, 1971; provided, however, that the aggregate principal amount of revenue bonds which the Board is authorized to issue under this section during the biennium ending June 30, 1973, shall not exceed thirteen million dollars ($13,000,000); provided, further, that the aggregate principal amount of revenue bonds which the Board is authorized to issue under this section during the biennium ending June 30, 1975, shall not exceed thirteen million dollars ($13,000,000). The bonds shall be dated, shall mature at such time or times not exceeding 30 years from their date or dates, and shall bear interest at such rate or rates as may be determined by the Board, and may be made redeemable before maturity at the option of the Board at such price or prices and under such terms and conditions as may be fixed by the Board prior to the issuance of the bonds. The Board shall determine the form and manner of execution of the bonds, and any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the State. In case any officer whose signature or a facsimile of whose signature appears on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. Notwithstanding any of the other provisions of this Part or any recitals in any bonds issued under the provisions of this Part, all such bonds shall be deemed to be negotiable instruments under the laws of this State. The bonds may be issued in coupon or registered form or both, as the Board may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The Board may sell such bonds in such manner, at public or private sale, and for such price, as it may determine to be for the best interests of the University.

The proceeds of the bonds of each issue shall be used solely for the purpose for which such bonds shall have been authorized and shall be disbursed in such manner and under such restrictions, if any, as the Board may provide in the resolution authorizing the issuance of such bonds. Unless otherwise provided in the authorizing resolution, if the proceeds of such bonds, by error of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit and shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued for the same purpose.

The resolution providing for the issuance of revenue bonds may also contain such limitations upon the issuance of additional revenue bonds as the Board may deem proper, and such additional bonds shall be issued under such restrictions and limitations as may be prescribed by such resolution.

Prior to the preparation of definitive bonds, the Board may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The Board may also provide for the replacement of any bonds which shall become mutilated or be destroyed or lost.

Bonds may be issued by the Board under the provisions of this Part, subject to the approval of the Advisory Budget Commission, but without obtaining the consent of any other commission, board, bureau or agency of the State, and without any other proceedings or the happening of any other conditions or things than those consents, proceedings, conditions or things which are specifically required by this Part.

Revenue bonds issued under the provisions of this Part shall not be deemed to constitute a debt of the State of North Carolina or a pledge of the faith and credit of the State, but such bonds shall be payable solely from the funds herein provided therefor and a statement to that effect shall be recited on the face of the bonds.

The Board is hereby authorized to issue, subject to the approval of the Advisory Budget Commission, at one time or from time to time, revenue bond anticipation notes of the Board in anticipation of the issuance of bonds authorized pursuant to the provisions of this Part. The principal of and the interest on such notes shall be payable solely from the proceeds of bonds or renewal notes or, in the event bond or renewal note proceeds are not available, any available revenues of the project or projects for which such bonds shall have been authorized. The notes of each issue shall be dated, shall mature at such time or times not exceeding two years from their date or dates, shall bear interest at such rate or rates as may be determined by the Board, and may be made redeemable before maturity, at the option of the Board, at such price or prices and under such terms and conditions as may be fixed by the Board, and may be made redeemable before maturity, at the option of the Board, at such price or prices and under such terms and conditions as may be fixed by the Board prior to the issuance of the notes. The Board shall determine the form and manner of execution of the notes, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the notes and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the State. In case any officer, whose signature or a facsimile of whose signature shall appear on any notes or coupons, shall cease to be such officer before the delivery of such notes, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. Notwithstanding any of the other provisions of this Part or any recitals in any notes issued under the provisions of this Part, all such notes shall be deemed to be negotiable instruments under the laws of this State. The notes may be issued in coupon or registered form or both, as the Board may determine, and provision may be made for the registration of any coupon notes as to principal alone and also as to both principal and interest, and for the reconversion into coupon notes of any notes registered as to both principal and interest. The Board may sell such notes in such manner, at public or private sale, and for such price, as it may determine to be for the best interests of the University.

The proceeds of the notes of each issue shall be used solely for the purpose for which the bonds in anticipation of which such notes are being issued shall have been authorized, and such note proceeds shall be disbursed in such manner and under such restrictions, if any, as the Board may provide in the resolution authorizing the issuance of such notes or bonds.

The resolution providing for the issuance of notes or bonds may also contain such limitations upon the issuance of additional notes as the Board may deem proper, and such additional notes shall be issued under such restrictions and limitations as may be prescribed by such resolution.

Notes may be issued by the Board under the provisions of this Part, subject to the approval of the Advisory Budget Commission but without obtaining the consent of any other commission, board, bureau or agency of the State, and without any other proceedings or the happening of any other conditions or things than those consents, proceedings, conditions or things which are specifically required by this Part.

Revenue bond anticipation notes issued under the provisions of this Part shall not be deemed to constitute a debt of the State of North Carolina or a pledge of the faith and credit of the State, but such notes shall be payable solely from the funds herein provided therefor and a statement to that effect shall be recited on the face of the notes.

Unless the context shall otherwise indicate, the word "bonds," wherever used in this Part, shall be deemed and construed to include the words "bond anticipation notes." (1961, c. 1078, s. 4; 1963, c. 944, s. 2; 1965, c. 1033, s. 2; 1967, c. 724; 1969, c. 1236; 1971, c. 636; c. 1244, s. 15; 1973, c. 663.)

Editor's Note.—

The 1967 amendment substituted "1969" for "1967" in the first sentence.

The 1969 amendment added to the first sentence the proviso relating to bonds issued during the biennium ending June 30, 1971, and increased the maximum interest rate from six percent to seven and one-half percent.

The first 1971 amendment added to the first sentence the proviso relating to bonds issued during the biennium ending June 30, 1973, and deleted "not exceeding seven and one-half per centum (7.5%) per annum" following "rate or rates" near the beginning of the second sentence of the first paragraph and deleted, at the end of the last sentence of the first paragraph, a proviso to the effect that no sale should be made at a price so low as to require the payment of the interest at a rate of more than 7.5 percent per annum.

The second 1971 amendment, effective July 1, 1972, capitalized the word "Board" throughout the section. See § 116-41.1 and the note thereto.

Session Laws 1971, c. 635, effective July 1, 1971, authorizes an additional $13,000,000 in revenue bonds for specific purposes.

The 1973 amendment added to the first sentence the proviso relating to bonds issued during the biennium ending June 30, 1975, and added the last six paragraphs of the section.

§ 116-41.5. Contents of resolution authorizing issuance; powers liberally construed; deposit and use of revenues; rights and remedies of bondholders; service charges; insurance of projects; depositaries.— The Board in the resolution authorizing the issuance of bonds under this Part may provide for a pledge to the payment of such revenue bonds and the interest thereon of the revenue derived from the project and also for a pledge of the revenues derived from any system, facility, plant, works, instrumentalities or properties improved, bettered, or extended by the project or otherwise within the jurisdiction of or operated by the University in connection with the University of North Carolina at Chapel Hill, North Carolina, the revenues derived from any future improvements, betterments or extensions of the project, the revenues derived from the University Enterprises, or any part thereof, or the revenues from the project and any or all of the revenues mentioned in this sentence, without regard to whether the operations involved are deemed governmental or proprietary, it being the purpose hereof to vest in the Board broad powers which shall be liberally construed. So long as any revenues of the University mentioned in this paragraph are pledged for the payment of the principal of or interest on any bonds issued hereunder, such revenues shall be deposited in a special fund and shall be applied and used only as provided in the resolution authorizing such bonds, subject, however, to any prior pledge or encumbrance thereof.

The resolution authorizing the issuance of the bonds may contain provisions for protecting and enforcing the rights and remedies of the holders of the bonds, including covenants setting forth the duties of the University in relation to the construction of any project to be financed with the proceeds of said bonds, and

to the maintenance, repair, operation and insurance of such project or any other project, systems, facilities, plants, works, instrumentalities, properties, the University Enterprises or any part thereof, if the revenues thereof are in any way pledged as security for the bonds; the fixing and revising of service charges and the collection thereof; and the custody, safeguarding and application of all moneys of the University pertaining to the project and the bonds, and all revenues pledged therefor. Notwithstanding the provisions of any other law, the Board may carry insurance on any such project in such amounts and covering such risks as it may deem advisable. It shall be lawful for any bank or trust company incorporated under the laws of the State of North Carolina which may act as depositary of the proceeds of bonds or of revenues to furnish such indemnifying bonds or to pledge such securities as may be required by the Board. Such resolution may set forth the rights and remedies of the bondholders and may restrict the individual right of action by bondholders. Such resolution may contain such other provisions in addition to the foregoing as the Board may deem reasonable and proper for the security of the bondholders.

The Board may provide for the payment of the proceeds of the bonds and any revenues pledged therefor to such officer, board or depositary as it may designate for the custody thereof, and for the method of disbursement thereof, with such safeguards and restrictions as it may determine. All expenses incurred in carrying out the provisions of such resolution may be treated as a part of the cost of operation. (1961, c. 1078, s. 5; 1971, c. 1244, s. 15.)

Editor's Note.—The 1971 amendment, effective July 1, 1972, capitalized the word "Board" in several places in this section. See § 116-41.1 and the note thereto.

§ **116-41.6. Pledge of revenues; lien.**—All pledges of revenues under the provisions of this part shall be valid and binding from the time such pledges are made. All such revenues so pledged shall immediately upon receipt thereof be subject to the lien of such pledge without any physical delivery thereof or further action, and the lien of such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the University, irrespective of whether such parties have notice thereof. (1961, c. 1078, s. 6.)

§ **116-41.7. Proceeds of bonds, revenues, etc., deemed trust funds.**—The proceeds of all bonds issued and all revenues and other moneys received pursuant to the authority of this part shall be deemed to be trust funds, to be held and applied solely as provided in this part. The resolution authorizing the issuance of bonds shall provide that any officer to whom, or bank, trust company or fiscal agent to which, such moneys shall be paid shall act as trustee of such moneys and shall hold and apply the same for the purposes hereof, subject to such regulations as such resolution may provide. (1961, c. 1078, s. 7.)

§ **116-41.8. Rights and remedies of bondholders.** — Any holder of revenue bonds issued under the provisions of this Part or of any of the coupons appertaining thereto, except to the extent that the rights herein given may be restricted by the resolution authorizing the issuance of such bonds, may, either at law or in equity, by suit, action, mandamus or other proceeding, protect and enforce any and all rights under the laws of the State of North Carolina, including this Part, or under such resolution, and may enforce and compel the performance of all duties required by this Part or by such resolution to be performed by the University or by any officer thereof or the Board, including the fixing, charging and collecting of service charges. (1961, c. 1078, s. 8; 1971, c. 1244, s. 15.)

Editor's Note.—The 1971 amendment, effective July 1, 1972, capitalized the word "Board" near the end of the section. See § 116-41.1 and the note thereto.

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§ **116-41.9. Refunding revenue bonds.**—The University is hereby authorized, subject to the approval of the Advisory Budget Commission, to issue from time to time refunding revenue bonds for the purpose of refunding any revenue bonds issued by the University under this part in connection with any project or projects, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds. The University is further authorized, subject to the approval of the Advisory Budget Commission, to issue from time to time refunding revenue bonds for the combined purpose of

(1) Refunding any revenue bonds or refunding revenue bonds issued by the University in connection with any project or projects including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds and

(2) Paying all or any part of the cost of any project or projects.

The issuance of such refunding revenue bonds, the maturities and other details thereof, the rights and remedies of the holders thereof, and the rights, powers, privileges, duties and obligations of the University with respect to the same, shall be governed by the foregoing provisions of this part insofar as the same may be applicable. (1961, c. 1078, s. 9.)

§ **116-41.10. Exemption from taxation.**—The bonds issued under the provisions of this part and the income therefrom shall at all times be free from taxation within the State. (1961, c. 1078, s. 10.)

§ **116-41.11. Executive committee may be authorized to exercise powers and functions of Board.**—The Board by resolution may authorize its executive committee to exercise or perform any of the powers or functions vested in the Board under this Part. (1961, c. 1078, s. 11; 1971, c. 1244, s. 15.)

Editor's Note.—The 1971 amendment, effective July 1, 1972, capitalized the word "Board" in two places. See § 116-41.1 and the note thereto.

§ **116-41.12. Part provides supplemental and additional powers; compliance with other laws not required.**—This part shall be deemed to provide an additional and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of or as repealing any powers now existing under any other law, either general, special or local; provided, however, that the issuance of revenue bonds or refunding revenue bonds under the provisions of this part need not comply with the requirements of any other law applicable to the issuance of bonds and provided, further, that all general, special or local laws, or parts thereof, inconsistent herewith are hereby declared to be inapplicable to the provisions of this part. (1961, c. 1078, s. 12.)

(Note.—Several additional statutes were enacted by the 1971 General Assembly pertaining to The University of North Carolina at Chapel Hill utilities. For convenience, they are reproduced here in Part 4 with the Chapter 116 sections on utilities.)

Chapter 62. Public Utilities

ARTICLE 1.

General Provisions.

§ 62-3. Definitions.—As used in this Chapter, unless the context otherwise requires, the term:

(23)

e. The term "public utility" shall include the University of North Carolina insofar as said University supplies telephone service, electricity or water to the public for compensation from the University Enterprises defined in G.S. 116-41.1(9).

(1971, c. 553; c. 634, s. 1; cc. 894, 895.)

Editor's Note.—

The second 1971 amendment added paragraph e to subdivision (23).

Session Laws 1971, c. 634, s. 3, provides: "In order to provide a period for the development by the University of North Carolina at Chapel Hill of records of the kind which may be required by the North Carolina Utilities Commission, the Utilities Commission shall have no authority in respect to the rates or service charges for the telephone service, electricity or water supplied to the public for compensation from the University Enterprises defined in G.S. 116-41.1(9) until January 1, 1973."

CHAPTER 635 OF THE 1971 SESSION LAWS

AN ACT TO AUTHORIZE THE EXTENSION AND IMPROVEMENT OF CERTAIN UNIVERSITY ENTERPRISES.

The General Assembly of North Carolina do enact:

SECTION 1. The purpose of this act is to authorize the extension and improvement of certain University Enterprises, as defined in G.S. 116-41.1(9), which are located in or near Chapel Hill and are in the jurisdiction of and operated by the University of North Carolina.

SEC. 2. The University of North Carolina is hereby authorized to extend and improve the telephone, electric, and water supply or treatment systems [identified as "University Enterprises" by G.S. 116-41.1(9)] or to undertake any other "project", as defined in G.S. 116-41.1(4), relating to the telephone, electric, and water systems.

SEC. 3. The above listed projects, extensions and improvements may be financed, in whole or in part, from the sale of revenue bonds in an amount not to exceed $13,000,000 as authorized by Part 4 of Article 1 of G.S. Chapter 116.

SEC. 4. This act shall become effective July 1, 1971.

In the General Assembly read three times and ratified, this the 21st day of June, 1971.

CHAPTER 723 OF THE 1971 SESSION LAWS

AN ACT TO CREATE A COMMISSION TO STUDY, AND IN ITS DISCRETION TO RECOMMEND THE RETENTION OR THE SALE, LEASE, RENTAL, TRANSFER, OR OTHER DISPOSITION OF CERTAIN UNIVERSITY ENTERPRISES OR PROJECTS IN THE JURISDICTION OF AND OPERATED BY THE UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL, AND TO AUTHORIZE SAID DISPOSITION IN THE EVENT OF SUCH A RECOMMENDATION.

WHEREAS, the Executive Committee of the Board of Trustees of the University of North Carolina has voted to authorize a study of the electric, water and telephone companies serving Chapel Hill and Carrboro as well as the University, which the University now owns and operates, to determine whether or not these utilities shall be retained or sold; and

WHEREAS, said Executive Committee directed that a bill be prepared for introduction in the 1971 General Assembly to provide for a commission to study the matter and make recommendations: Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. The Governor shall appoint as soon as feasible and prior to July 1, 1971, a Special Commission to consist of a chairman and not more than fifteen other members, the chairman to be designated by the Governor. The Commission so appointed shall include at least two members of the Board of Trustees of the University of North Carolina, the Mayor or a member of the Board of Aldermen of the Town of Carrboro, the Mayor or a member of the Board of Aldermen of the Town of Chapel Hill, a member of the Board of Commissioners of Orange County, the State Director of Administration, and two or more persons who have expert knowledge of each type of utility involved.

SEC. 2. It shall be the duty of the Commission to study the feasibility and desirability of retaining or "selling, leasing, renting, transferring or otherwise disposing of (hereinafter referred to collectively as 'conveying' or 'conveyance')" the telephone, electric, water and sewer systems, facilities, properties, assets, plants, works, and instrumentalities (identified as enterprises or projects by Article 1 of General Statutes Chapter 116) in the jurisdiction of and operated by the University of North Carolina at Chapel Hill, or any one or more of said enterprises or projects, or any part of one or more of the enterprises or projects, including but not limited to any part thereof located on the University campus. The Commission shall complete its study within six months of its appointment; provided, however, for good cause shown the Governor may grant the Commission an additional period, not to exceed six months, to complete the study. The Commission, during its deliberations, shall make interim reports to any meeting of the Executive Committee of the Board of Trustees indicating the status of its study.

SEC. 3. The Commission shall make its final "report and recommendations" to the full Board of Trustees indicating its findings, and recommending retention in whole or in part of the enterprises or projects, or detailed plans, specifications and requirements for the sale, lease, rental, transfer or other disposition of the enterprises or projects or any portion thereof. This report shall include a recommendation as to the property to be conveyed and shall fully describe said property, whether it be real or personal or both. The Commission's report shall contain recommendations as to terms and conditions of the conveyance and may include qualifications and considerations that should be required of the transferee. The report may recommend the appropriate time for making the transfer, and may further recommend the retention of those projects or enterprises or any part thereof, essential or desirable for University needs.

SEC. 4. The Board of Trustees shall forthwith consider the report and recommendations of the Special Commission and may approve the report and recommendations in their entirety or approve any part of said report and recommendations, or may modify by addition or deletion the recommendations of the Special Commission.

SEC. 5. Approval by the Board of Trustees of all or any part of the action recommended by the Special Commission (as modified by the Trustees) shall constitute authority for the Executive Committee of the Board of Trustees to proceed with the sale, lease, rental, transfer, disposition, or other action approved. The Special Commission in consultation with appropriate University officials is empowered to proceed with negotiation for the sale, lease, rental, transfer, or other disposition of the enterprises by negotiation, by bid, or in any other manner determined by the Commission to be in the interest of the State of North Carolina, the University of North Carolina at Chapel Hill, the employees of the enterprises or projects involved, and those served by the enterprises or projects. The Special Commission shall consult with the State Utilities Commission during the course of negotiations concerning the ability and capacity of every prospective transferee to

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render proper service. When an agreement of sale, lease, rental, transfer, or other disposition has been developed by the Commission, the proposed transaction shall then be submitted to the Executive Committee of the Board of Trustees for approval or disapproval and, if approved, to the Governor and Council of State for their approval or disapproval. If a proposal is disapproved by the Executive Committee of the Board of Trustees, or by the Governor and Council of State, the Executive Committee may request the Commission to re-open the matter for possible modification of terms and re-submission to the Executive Committee and thereafter to the Governor and Council of State. The conveyance of both real and personal property shall be made and executed in the manner prescribed in Article 16 of G.S. Chapter 146 setting forth the "form of conveyances" of State lands.

SEC. 6. The operation of any enterprise or project so sold, leased, rented, transferred, or otherwise disposed of shall be regulated by the State Utilities Commission in the same manner and to the same extent as other telephone, electric, water and sewer systems, unless the purchaser or other transferee be a municipality or other legal entity exempt from such regulation. If the transferee is exempt from such regulation, then any agreement entered into must set forth a formula or other method for determining the rates to be charged the University for the utility service involved.

SEC. 7. The sale, lease, rental, transfer, or other disposition may be for cash or for such other property or thing of value as may be approved in writing by the State Treasurer. It shall be the duty of the Treasurer to approve the form of said consideration, but not the amount.

SEC. 8. The acquisition of the property by a public utility as defined in Chapter 62 of the General Statutes shall be subject to approval of the Utilities Commission, except as to the compensation to be paid therefor.

SEC. 9. The University of North Carolina at Chapel Hill is hereby authorized and directed to furnish clerical assistance and to secure such information as the Commission may require in order to make the report and recommendations herein described. In addition, the Special Commission may employ such attorneys, accountants, engineers, and other experts needed by the Commission to make an appraisal of the enterprises or projects involved, and as otherwise required to make said report and recommendations. All costs and expenditures incurred under the authority of this paragraph shall be paid by the University of North Carolina at Chapel Hill from utility operations funds.

SEC. 10. The members of the Special Commission shall be paid such per diem and travel expenses as are provided for members of State boards and commissions generally; these expenses shall be paid by the University of North Carolina at Chapel Hill from utility operations funds.

SEC. 11. Net proceeds from real and personal property sold, leased, rented, transferred or otherwise disposed of pursuant to this act shall be applied as provided in G.S. 146-30, *third*, which governs the "application of net proceeds" from the disposition of State property by State agencies and institutions.

SEC. 12. Chapter 653 of the North Carolina Session Laws of 1949 and all other laws and clauses of laws in conflict with this act are hereby repealed.

SEC. 13. This act shall be effective upon its ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1971.

(Editor's Note.—Section 66-58 exempts University of North Carolina utilities from its general prohibition against sale of merchandise or services by governmental units. Pertinent parts of section 66-58 are reproduced *infra* at 173.)

Part 5. Miscellaneous Provisions.

§§ 116-42 to 116-42.4: Repealed by Session Laws 1973, c. 495, s. 2.

Cross Reference.—For present statute covering the subject matter of the repealed sections, see §§ 116-44.3 through 116-44.5.

Editor's Note. — The section originally codified as § 116-42 was repealed by Session Laws 1971, c. 1244, s. 1. The same 1971 act transferred and renumbered the sections originally codified as §§ 116-44.1, 116-46.1, 116-46.1A, 116-46.1B and 116-186 as §§ 116-42 through 116-42.4.

Session Laws 1973, c. 495, ss. 3 and 5, provide: "Sec. 3. All ordinances, rules, and regulations adopted before the effective date of this act, under authority of G.S. 116-42, 116-42.1, 116-42.2, 116-42.3 and 116-42.4, as those sections read immediately before the effective date of this act, shall remain in full force and effect until altered pursuant to authority conferred by this act.

"Sec. 5. No action or proceeding of any nature (whether civil or criminal, judicial or administrative, or otherwise) pending at the effective date of this act is abated or otherwise affected by the adoption of this act."

Session Laws 1973, c. 495, s. 4, contains a severability clause.

§ **116-43. Escheat receipts prior to July 1, 1971.**—All property that has heretofore escheated to the University of North Carolina, and all interest and earnings thereon, shall be set apart by the Board of Governors of the University for the six-member campuses of the University of North Carolina as constituted on June 30, 1971, so that the interest and earnings from said fund shall be used for maintenance and/or for scholarships and loan funds for worthy and needy students, residents of the State, attending the member campuses of the University of North Carolina as constituted on June 30, 1971, under such rules and regulations as shall be adopted by the Board of Governors. (1874-5, c. 236, s. 2; Code, s. 2630; Rev., s. 4285; C. S., s. 5787; 1947, c. 614, s. 4; 1953, c. 1202, s. 3; 1971, c. 1244, s. 17.)

Editor's Note. — This section was formerly § 116-26. It was rewritten and transferred to its present position by Session Laws 1971, c. 1244, s. 17, effective July 1, 1972.

§ **116-44**: Repealed by Session Laws 1971, c. 1244, s. 1, effective July 1, 1972.

§ **116-44.1**: Transferred to § 116-42 by Session Laws 1971, c. 1244, s. 11, effective July 1, 1972.

§ **116-44.2**: Transferred to § 116-38 by Session Laws 1971, c. 1244, s. 7, effective July 1, 1972.

Chapter 986 of the 1965 Session Laws

AN ACT TO CREATE A 2 YEAR SCHOOL OF MEDICINE AT EAST CAROLINA COLLEGE.

The General Assembly of North Carolina do enact:

Section 1. The Board of Trustees of East Carolina College is hereby authorized to create a School of Medicine at East Carolina College, Greenville, North Carolina.

Sec. 2. The School of Medicine shall meet all requirements and regulations of the Council on Medical Education and Hospitals of the American Medical Association, the Association of American Medical Colleges, and other such

accrediting agencies whose approval is normally required for the establishment and operation of a two-year medical school.

Sec. 3. The North Carolina General Assembly shall appropriate a sum not to exceed one hundred thousand dollars ($100,000) for the fiscal year beginning July 1, 1965, and two hundred fifty thousand dollars ($250,000) for the fiscal year beginning July 1, 1966 for payment of current expenses involved in the organization and operation of said medical school; provided, the sum of one hundred thousand dollars ($100,000) herein appropriated for the first year of the biennium shall be used for the purpose of employing a Dean or other competent personnel to determine whether or not a satisfactory curriculum can be devised which will meet the accreditation standards of the Council of Medical Education and the American Association of Medical Schools and Colleges, and that if and when those two accrediting associations shall indicate that the proposed two year medical school will be accredited, that the two hundred fifty thousand dollars ($250,000) appropriated for the second year of the biennium shall be available during the said second year for the purpose of employing necessary personnel, professors and others to implement the school.

Sec. 4. The North Carolina General Assembly shall appropriate an amount not to exceed one million five hundred thousand dollars ($1,500,000) for capital improvements for the medical school, provided: this appropriation for capital improvements shall be contingent upon the securing of four million dollars ($4,000,000) additional funds for capital improvements from sources other than the General Fund of the State of North Carolina, or such lesser amount as may be recommended by the accrediting agencies required for the establishment of said school, the sum herein appropriated shall not be made available until the proposed curriculum has met the approval of the accrediting agencies required for the establishment of said school. Further provided that if the conditions imposed by Section 3 and Section 4 have not been met by January 1, 1967, and accreditation granted, the Board of Higher Education shall study the proposal for a medical school at said college and first give its approval thereto before said college shall continue or implement any program for a two or four year school of medicine.

Sec. 5. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 6. This Act shall be in full force and effect upon its ratification.

Chapter 1189 of the 1969 Session Laws

AN ACT TO PROVIDE FUNDS FOR PLANNING AND DEVELOPING A CURRICULUM FOR THE SCHOOL OF MEDICINE AUTHORIZED BY G.S. 116-46.4.

The General Assembly of North Carolina do enact:

Section 1. The sum of three hundred seventy-five thousand dollars ($375,000.00) is hereby appropriated from the General Fund of the State to East Carolina University in addition to any and all funds appropriated by the 1969 General

Assembly for the 1969-71 biennium, to be used for planning and developing a two-year curriculum for the School of Medicine authorized by G.S. 116–46.4, subject to the provisions of said Act.

Sec. 2. All laws and clauses of laws in conflict with this Act are hereby repealed.

Sec. 3. This Act shall be in full force and effect upon its ratification.

Chapter 1053 of the 1971 Session Laws

AN ACT TO PROVIDE FUNDS FOR PLANNING AND INITIATING A CURRICULUM FOR THE SCHOOL OF MEDICINE OF EAST CAROLINA UNIVERSITY AUTHORIZED BY G.S. 116–46.4.

Whereas, the North Carolina General Assembly in 1965 and again in 1969 authorized the creation of a school of medicine at East Carolina University (G.S. 116-46.4); and

Whereas, the North Carolina Board of Higher Education, chaired by the Governor, has recommended that the initial operation of the School of Medicine of East Carolina University be a first-year program in medical education operated in a cooperative arrangement with the School of Medicine of the University of North Carolina in such a manner that students who successfully complete the prescribed first-year program at East Carolina University School of Medicine are automatically accepted into the second-year class at the University of North Carolina School of Medicine; and

Whereas, pursuant to the recommendation of the North Carolina Board of Higher Education and the Governor, a special committee representing the Universities of North Carolina and East Carolina met and reached mutual agreements specifying a mandate of cooperation between the two institutions, which agreements provide for joint planning and mutual arrangements regarding admission, enrollment totals, curriculum planning, faculty, automatic progression to the second year at the University of North Carolina School of Medicine, and other relevant matters, and which were duly forwarded to the Governor and the North Carolina Board of Higher Education; and

Whereas, the North Carolina Board of Higher Education has approved the agreed-upon mandate of cooperation and is of the opinion that the curriculum, facilities and provisions for transfer of students will assure a sound one-year program in medical education; and

Whereas, this course of action is recognized as a significant step in a Statewide plan for medical education, as well as a step in development of an expanded medical school at East Carolina University; and

Whereas, the commencement, by funding, of a medical school at East Carolina University provides the expertise in faculty and resources for a one-year program in medical education and provides the School of Medicine of the University of North Carolina, in cooperation with the School of Medicine of East Carolina University, as is feasible and appropriate, a base for setting up clinical affiliations for advanced medical student clinical clerkship and house staff rotations in community hospitals; now, therefore,

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The General Assembly of North Carolina enacts;

Section 1. The funds appropriated to East Carolina University for the implementation of this act are for the purpose of planning and initiating a program of first-year medical education at the East Carolina University School of Medicine as authorized by G.S. 116-46.4, and as recommended by the North Carolina Board of Higher Education, and in accordance with cooperative agreements between the University of North Carolina and the School of Medicine of East Carolina University whereby the School of Medicine of East Carolina University will provide training in medical education at the first-year level and the School of Medicine of the University of North Carolina will guarantee admission to all students satisfactorily completing the one-year medical program at East Carolina University. It is the intent of this act that these cooperative agreements between the two Universities be faithfully followed.

Sec. 2. This act shall become effective on July 1, 1971.

Chapter 562 of the 1973 Session Laws

AN ACT TO ESTABLISH A RESERVE FUND TO CREATE AN ADDITIONAL DEGREE-GRANTING SCHOOL OF MEDICINE WITHIN THE UNIVERSITY OF NORTH CAROLINA.

Whereas, there is strong evidence that many areas of the State, East, Piedmont, and West, do not share in the availability of a broad range of high quality medical care routinely enjoyed and expected by citizens of other states and by North Carolinians located near the large medical complexes and population centers; and

Whereas, the ratio of physicians who actually provide personal health services to people is probably the most important single factor in determining the quality and quantity of health care available, and this ratio is known to be low in our State as a whole, and desperately low in large geographic areas; and

Whereas, the number of physicians practicing in an area has the added effect of attracting allied health personnel so essential to broad health care; and

Whereas, it is concluded that there is a crying demand by our neglected people for a substantial increase in the production of physicians in an atmosphere of family practice, nontraditional specialty emphasis, and admissions screening related to the goal of improved health care for the State's rural areas and small towns and communities; and

Whereas, the committee to study the request of East Carolina University for a second year of medical education, as established by the Board of Governors, believes that we should "consider seriously the establishment of a new degree-granting school of medicine which would emphasize the training of primary care physicians"; and

Whereas, in response to this Committee's recommendation, a study is underway by a team of experienced and qualified national consultants to evaluate the need for an additional degree-granting school of medicine within the University of North Carolina; and

Whereas, if this study should indicate the need for an additional degree-granting school of medicine, it would not be possible to provide for implementation without substantial advance consideration of the tax resources required; and

Whereas, several other states, among them Arkansas, Iowa, Mississippi, and South Carolina, have seen the wisdom of establishing substantial contingency reserves to provide for future needs; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. There is hereby appropriated out of the General Fund of the State the sum of seven million five hundred thousand dollars ($7,500,000) to the Board of Governors of the University of North Carolina as a reserve to establish an additional degree-granting school of Medicine within the University of North Carolina.

SEC. 2. This act shall be effective July 1, 1973.

In the General Assembly read three times and ratified, this the 17th day of May, 1973.

Editor's Note. See page 182 and 183 for the current appropriations to the East Carolina Medical School

Chapter 1015 of the 1971 Session Laws

AN ACT CREATING THE U.N.C. DEPARTMENT OF FAMILY MEDICINE AND APPROPRIATING CERTAIN FUNDS THERETO.

The General Assembly of North Carolina enacts:

SECTION 1. There is hereby created in the University of North Carolina School of Medicine a Department of Family Medicine co-equal with other departments in the School of Medicine. Said Department shall not be abolished nor shall its operations be curtailed without the express approval of the General Assembly.

SEC. 2. There is hereby appropriated, in addition to all other funds, out of the General Fund, the sums of $200,000 for fiscal 1971-1972 and $300,000 for fiscal 1972-1973 to the Department of Family Medicine of the University of North Carolina School of Medicine.

SEC. 3. This act shall become effective July 1, 1971.

In the General Assembly read three times and ratified this the 20th day of July, 1971.

Chapter 1244 of the 1971 Session Laws

AN ACT TO CONSOLIDATE THE INSTITUTIONS OF HIGHER LEARNING IN NORTH CAROLINA.

[**Editor's Note:** *Sections 1 through 17 of this act amend, repeal, or enact new sections of Chapter 116. These changes are reflected in Chapter II on the University of North Carolina. Sections 18 through 22, however, were not given chapter 116 section numbers and presumably will not be codified as part of Chapter 116. Because of their importance, however, they are reproduced here.*]

* * * * *

Sec. 18. All policies, rules and regulations adopted and actions taken prior to July 1, 1972, by the boards of trustees of the "constituent institutions", as said term is defined in G.S. 116-2, as rewritten by this act, or by the Board of Trustees of the University of North Carolina pertaining to any of its six institutions, shall be effective on and after July 1, 1972, as to the respective institutions, except as modified by this act or by subsequent action of the Board of Governors of the University of North Carolina or by the institutional boards of trustees. The merger of an institution into the University of North Carolina under this act shall not impair any term of office, appointment or employment of any administrative, instructional or other personnel of the institution. Effective July 1, 1972, the title president and vice-president of each institution shall be changed to chancellor and vice-chancellor and the tenures of persons occupying these positions shall continue subject to the other provisions of this act. As soon after July 1, 1972, as the Board of Governors can reasonably do so, it shall adopt, for itself and all constituent institutions, a code based upon the code of the University of North Carolina as it may exist prior to July 1, 1972, but modified in such ways as the Board of Governors may deem desirable in order to take into account the practices and needs of all the constituent institutions.

Sec. 19. The terms of the members of the Board of Higher Education and of the Board of Trustees of the University of North Carolina, as said boards may exist on June 30, 1972, shall expire on that date. The terms of the members of the boards of trustees of the regional universities and the North Carolina School of the Arts, with the exception of *ex officio* members, shall expire on June 30, 1973.

Sec. 20. (a) The membership of the initial Board of Governors of the University of North Carolina, as provided for in G.S. 116-5, as rewritten by this act, shall be designated prior to December 31, 1971, by the various institutional boards of trustees and by the Board of Higher Education, and effective January 1, 1972, the persons so designated, with the Governor as chairman, shall constitute a Planning Committee to serve until July 1, 1972, on which date the members of the committee shall become, in accordance with the provisions of G.S. 116-5, the initial Board of Governors of the University of North Carolina.

(b) The Planning Committee shall have the following powers and duties:

(1) To prepare a plan for the merging of the staff positions of the Board of Higher Education and of the General Administration of the University of North Carolina, said plan to become effective July 1, 1972;

(2) to elect a President and, upon his recommendation, to elect such other officers as may be deemed necessary or desirable, all of whom shall take office on or after July 1, 1972, and to designate positions, titles and salaries for the new staff;

(3) to assign individual staff members of the Board of Higher Education and of the General Administration of the University of North Carolina to serve as temporary staff for the Planning Committee and to employ such additional staff personnel as may be needed;

(4) with the approval of the Advisory Budget Commission, to make adjustments in the operating budgets of the Board of Higher Education and of the General Administration of the University of North Carolina, combining the two budgets into one budget effective July 1, 1972;

(5) to make such arrangements as may be deemed desirable for housing the staff of the Board of Governors;

(6) following consultation with institutional heads and with the boards of trustees of the institutions, to make any and all plans that may be deemed desirable to effectuate the merger of the 10 institutions into the University of North Carolina; and

(7) to make recommendations to the Governor, the Department of Administration, the Board of Higher Education and the institutional boards of trustees concerning actions that, in the judgment of the Planning Committee, would facilitate the implementation of this act.

(c) With the approval of the Advisory Budget Commission, the Planning Committee may, during the period January 1 to June 30, 1972, use such funds as it may deem desirable from the operating budget of the General Administration of the University of North Carolina or from the operating budget of the Board of Higher Education. In addition the Planning Committee may request funds from the Contingency and Emergency Fund to be used either during the six-month period or for the year beginning July 1, 1972, if the Planning Committee concludes that additional funds are needed.

(d) If any vacancy should occur in the Planning Committee after January 1, 1972, and prior to July 1, 1972, it shall be filled by the institutional board or the agency that appointed the person whose place is vacant.

Sec. 21. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 22. Sections 1 through 19 of this act shall become effective on July 1, 1972, except that appointments and elections pursuant to the provisions of the act may be made upon ratification of the act and prior to July 1, 1972. Section 20 shall become effective on ratification.

In the General Assembly read three times and ratified, this the 30th day of October, 1971.

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III. North Carolina School of the Arts

Chapter 116. Higher Education

ARTICLE 4.

North Carolina School of the Arts.

§ 116-63. Policy.—It is hereby declared to be the policy of the State to foster, encourage and promote, and to provide assistance for, the cultural development of the citizens of North Carolina, and to this end the General Assembly does create and provide for a training center for instruction in the performing arts. (1963, c. 1116.)

§ 116-64. Establishment of school.—There is hereby established, and there shall be maintained, a school for the professional training of students having exceptional talent in the performing arts which shall be defined as an educational institution of the State, to serve the students of North Carolina and other states, particularly other states of the South. The school shall be designated the "North Carolina School of the Arts." (1963, c. 1116; 1971, c. 1244, s. 13.)

Editor's Note.—The 1971 amendment, effective July 1, 1972, added the second sentence.

§ 116-65. To be part of University of North Carolina; membership of board of trustees.—The North Carolina School of the Arts is a part of the University of North Carolina and subject to the provisions of Article 1, Chapter 116, of the General Statutes; provided, however, that notwithstanding the provisions of G.S. 116-31, the board of trustees of said school shall consist of 14 persons, 13 of whom are selected in accordance with provisions of G.S. 116-31 and one of whom shall be the conductor of the North Carolina Symphony, who shall serve ex officio. (1963, c. 1116; 1971, c. 320, s. 4; c. 1244, s. 13.)

Editor's Note.—The first 1971 amendment changed the former second sentence so as to provide that the president of the student government, as well as the conductor of the North Carolina Symphony, should be an ex officio member of the board of trustees, and added to that sentence a provision that the ex officio members should have power to vote on all matters coming before the board.

The second 1971 amendment rewrote the section.

§ 116-66. Powers of various boards.—The Board of Governors of the University of North Carolina and the board of trustees of the school shall be advised and assisted by the State Board of Education and by the advisory board of the school. Entrance requirements shall be prescribed so that the professional training offered shall be available only to those students who possess exceptional talent in the performing arts. In developing curricula the school shall utilize, pursuant to agreement with institutions of higher education or with any local administrative school unit, existing facilities and such academic nonarts courses and programs of instruction as may be needed by the students of the school, and, in the discretion of the Board of Governors, personnel may be employed jointly with any such institution or unit on a cooperative, cost-sharing basis. Curricula below the collegiate level shall be developed with the advice and approval of the State Board of Education and in consultation with the advisory board of the school. The school shall confer and cooperate with the Southern Regional Education Board and with other regional and national organizations to obtain wide support and to establish the school as the center in the South for the professional training and performance of artists. The chancellor of the school shall preferably be a noted composer or dramatist. (1963, c. 1116; 1971, c. 1244, s. 13.)

Editor's Note. — The 1971 amendment, effective July 1, 1972, rewrote this section, which formerly enumerated the powers of the trustees of the school.

§ **116-67. Advisory board.**—An advisory board, to consist of at least ten members who shall have achieved national, or international distinction as performers, playwrights, or composers, shall be appointed by the Governor, to serve for terms of eight (8) years each; provided, that of the original advisory board, one third shall be appointed for terms of eight (8) years, one third shall be appointed for terms of six (6) years, and one third shall be appointed for terms of four (4) years. The members of the advisory board shall be notified of all meetings of the board of trustees, and shall be invited to attend such meetings and to advise and counsel with the board of trustees, but the members of the advisory board shall not be entitled to vote. Vacancies arising on the said advisory board shall be filled by election of replacement members by the advisory board, with the approval of the Governor, for terms of eight (8) years, or, if to fill a vacancy arising during an unexpired term, for the remainder of the term of the vacating member. (1963, c. 1116.)

§ **116-68. Endowment fund.**—The board of trustees is authorized to establish a permanent endowment fund, and shall perform such duties in relation thereto as are prescribed by the provisions of Article 1, Chapter 116, of the General Statutes. (1963, c. 1116; 1971, c. 1244, s. 13.)

Editor's Note. — The 1971 amendment, effective July 1, 1972, substituted "Article 1, Chapter 116, of the General Statutes," for "G.S. 116-46 (7)" at the end of the section.

§ **116-69. Purpose of school program.** — The primary purpose of the school shall be the professional training, as distinguished from liberal arts instruction, of talented students in the fields of music, drama, the dance, and allied performing arts, at both the high school and college levels of instruction, with emphasis placed upon performance of the arts, and not upon academic studies of the arts. The said school may also offer high school and college instruction in academic subjects, and such other programs as are deemed necessary to meet the needs of its students and of the State, consistent with appropriations made and gifts received therefor, and may cooperate, if it chooses, with other schools which provide such courses of instruction. The school, on occasion, may accept elementary grade students of rare talent, and shall arrange for such students, in cooperation with an elementary school, a suitable educational program. (1963, c. 1116.)

§§ **116-70, 116-70.1**: Repealed by Session Laws 1971, c. 1244, s. 13, effective July 1, 1972.

IV. Disruption on Campus: Applicable Statutory Provisions

A. Criminal Law Provisions of Chapter 14 of the North Carolina General Statutes

SUBCHAPTER I. GENERAL PROVISIONS.

ARTICLE 1.

Felonies and Misdemeanors.

§ 14-1. **Felonies and misdemeanors defined.**—A felony is a crime which:

(1) Was a felony at common law;
(2) Is or may be punishable by death;
(3) Is or may be punishable by imprisonment in the State's prison; or
(4) Is denominated as a felony by statute.

Any other crime is a misdemeanor. (1891, c. 205, s. 1; Rev., s. 3291; C. S., s. 4171; 1967, c. 1251, s. 1.)

§ 14-2. Punishment of felonies; what constitutes life sentence. — Every person who shall be convicted of any felony for which no specific punishment is prescribed by statute shall be punished by fine, by imprisonment for a term not exceeding 10 years, or by both, in the discretion of the court. A sentence of life imprisonment shall be considered as a sentence of imprisonment for a term of 80 years in the State's prison. (R. C., c. 34, s. 27; Code, s. 1096; Rev., s. 3292; C. S., s. 4172; 1967, c. 1251, s. 2; 1973, c. 1201, s. 6.)

Editor's Note. — The 1973 amendment substituted "punished" for "punishable" near the middle of the first sentence and added the second sentence. The 1973 amendatory act became effective April 8, 1974, and provides that it shall be applicable to all offenses thereafter committed.

§ 14-3. **Punishment of misdemeanors, infamous offenses, offenses committed in secrecy and malice or with deceit and intent to defraud.**—(a) Except as provided in subsection (b), every person who shall be convicted of any misdemeanor for which no specific punishment is prescribed by statute shall be punishable by fine, by imprisonment for a term not exceeding two years, or by both, in the discretion of the court.

(b) If a misdemeanor offense as to which no specific punishment is prescribed be infamous, done in secrecy and malice, or with deceit and intent to defraud, the offender shall, except where the offense is a conspiracy to commit a misdemeanor, be guilty of a felony and punishable as prescribed in § 14-2. (R. C., c. 34, s. 120; Code, s. 1097; Rev., s. 3293; C. S., s. 4173; 1927, c. 1; 1967, c. 1251, s. 3.)

§ 14-4. **Violation of local ordinances misdemeanor.**—If any person shall violate an ordinance of a county, city, or town, he shall be guilty of a misdemeanor and shall be fined not more than fifty dollars ($50.00), or imprisoned for not more than thirty days. (1871-2, c. 195, s. 2; Code, s. 3820; Rev., s. 3702; C. S., s. 4174; 1969, c. 36, s. 2.)

SUBCHAPTER II. OFFENSES AGAINST THE STATE.

ARTICLE 4.

Subversive Activities.

§ 14-11. Activities aimed at overthrow of government; use of public buildings.—It shall be unlawful for any person, by word of mouth or writing, willfully and deliberately to advocate, advise or teach a doctrine that the government of the United States, the State of North Carolina or any political subdivision thereof shall be overthrown or overturned by force or violence or by any other unlawful means. It shall be unlawful for any public building in the State, owned by the State of North Carolina, any political subdivision thereof, or by any department or agency of the State or any institution supported in whole or in part by State funds, to be used by any person for the purpose of advocating, advising or teaching a doctrine that the government of the United States, the State of North Carolina or any political subdivision thereof should be overthrown by force, violence or any other unlawful means. (1941, c. 37, s. 1.)

§ 14-12. Punishment for violations.—Any person or persons violating any of the provisions of this article shall, for the first offense, be guilty of a misdemeanor and be punished accordingly, and for the second offense shall be guilty of a felony and punished accordingly. (1941, c. 37, s. 2.)

§ 14-12.1. Certain subversive activities made unlawful.—It shall be unlawful for any person to:

1. By word of mouth or writing advocate, advise or teach the duty, necessity or propriety of overthrowing or overturning the government of the United States or a political subdivision of the United States by force or violence; or,

2. Print, publish, edit, issue or knowingly circulate, sell, distribute or publicly display any book, paper, document, or written or printed matter in any form, containing or advocating, advising or teaching the doctrine that the government of the United States or a political subdivision of the United States should be overthrown by force, violence or any unlawful means; or,

3. Organize or help to organize or become a member of or voluntarily assemble with any society, group or assembly of persons formed to teach or advocate the doctrine that the government of the United States or a political subdivision of the United States should be overthrown by force, violence or any unlawful means.

Any person violating the provisions of this section shall be guilty of a felony and upon conviction shall be fined or imprisoned, or both, in the discretion of the court.

Whenever two or more persons assemble for the purpose of advocating or teaching the doctrine that the government of the United States or a political subdivision of the United States should be overthrown by force, violence or any unlawful means, such an assembly is unlawful, and every person voluntarily participating therein by his presence, aid or instigation, shall be guilty of a felony and punishable by a fine or imprisonment, or both in the discretion of the court. (1953, c. 675, s. 2.)

Editor's Note.—
The 1953 amendment substituted "instigation" for "investigation" in line five of the third paragraph of subsection 3.

§ 14-12.2. Definitions. — The terms used in this article are defined as follows: (1) The term "secret society" shall mean any two or more persons organized, associated together, combined or united for any common purpose whatsoever, who shall use among themselves any certain grips, signs or password, or who shall use for the advancement of any of their purposes or as a part of their ritual any disguise of the person, face or voice or any disguise whatsoever, or who shall take any extrajudicial oath or secret solemn pledge or administer such oath or pledge to those associated with them, or who shall transact business and advance their purposes at secret meeting or meetings which are tiled and guarded against intrusion by persons not associated with them. (2) The term "secret political society" shall mean any secret society, as hereinbefore defined, which shall at any time have for a purpose the hindering or aiding the success of any candidate for public office, or the hindering or aiding the success of any political party or organization, or violating any lawfully declared policy of the government of the State or any of the laws and constitutional provisions of the State. (3) The term "secret military society" shall mean any secret society, as hereinbefore defined, which shall at any time meet, assemble or engage in a venture when members thereof are illegally armed, or which shall at any time have for a purpose the engaging in any venture by members thereof which shall require illegal armed force or in which illegal armed force is to be used, or which shall at any time muster, drill or practice any military evolutions while illegally armed. (1953, c. 1193, s. 1.)

Editor's Note — For comment on this article, see 31 N. C. Law Rev. 401.

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§ 14-12.3. **Certain secret societies prohibited.**—It shall be unlawful for any person to join, unite himself with, become a member of, apply for membership in, form, organize, solicit members for, combine and agree with any person or persons to form or organize, or to encourage, aid or assist in any way any secret political society or any secret military society or any secret society having for a purpose the violating or circumventing the laws of the State. (1953, c. 1193, s. 2.)

§ 14-12.4. **Use of signs, grips, passwords or disguises or taking or administering oath for illegal purposes.**—It shall be unlawful for any person to use, agree to use, or to encourage, aid or assist in the using of any signs, grips, passwords, disguise of the face, person or voice, or any disguise whatsoever in the furtherance of any illegal secret political purpose, any illegal secret military purpose, or any purpose of violating or circumventing the laws of the State; and it shall be unlawful for any person to take or administer, or agree to take or administer, any extrajudicial oath or secret solemn pledge to further any illegal secret political purpose, any illegal secret military purpose, or any purpose of violating or circumventing the laws of the State. (1953, c. 1193, s. 3.)

§ 14-12.5. **Permitting, etc., meetings or demonstrations of prohibited secret societies.** — It shall be unlawful for any person to permit or agree to permit any members of a secret political society or a secret military society or a secret society having for a purpose the violating or circumventing the laws of the State to meet or to hold any demonstration in or upon any property owned or controlled by him. (1953, c. 1193, s. 4.)

§ 14-12.6. **Meeting places and meetings of secret societies regulated.**—Every secret society which has been or is now being formed and organized within the State, and which has members within the State shall forthwith provide or cause to be provided for each unit, lodge, council, group of members, grand lodge or general supervising unit a regular meeting place in some building or structure, and shall forthwith place and thereafter regularly keep a plainly visible sign or placard on the immediate exterior of such building or structure or on the immediate exterior of the meeting room or hall within such building or structure, if the entire building or structure is not controlled by such secret society, bearing upon said sign or placard the name of the secret society, the name of the particular unit, lodge, council, group of members, grand lodge or general supervising unit thereof and the name of the secretary, officer, organizer or member thereof who knows the purposes of the secret society and who knows or has a list of the names and addresses of the members thereof, and as such secretary, officer, organizer or member dies, removes, resigns or is replaced, his or her successor's name shall be placed upon such sign or placard; any person or persons who shall hereafter undertake to form and organize any secret society or solicit membership for a secret society within the State shall fully comply with the foregoing provisions of this section before forming and organizing such secret society and before soliciting memberships therein; all units, lodges, councils, groups of members, grand lodge and general supervising units of all secret societies within the state shall hold all of their secret meetings at the regular meeting place of their respective units, lodges, councils, group of members, grand lodge or general supervising units or at the regular meeting place of some other unit, lodge, council, group of members, grand lodge or general supervising unit of the same secret society, and at no other place unless notice is given of the time and place of the meeting and the name of the secret society holding the meeting in some newspaper having circulation in the locality where the meeting is to be held at least two days before the meeting. (1953, c. 1193, s. 5.)

§ 14-12.7. Wearing of masks, hoods, etc., on public ways.—No person or persons over sixteen years of age shall, while wearing any mask, hood or device whereby the person, face or voice is disguised so as to conceal the identity of the wearer, enter, be or appear upon any lane, walkway, alley, street, road, highway or other public way in this State. (1953, c. 1193, s. 6.)

§ 14-12.8. Wearing of masks, hoods, etc., on public property.—No person or persons shall in this State, while wearing any mask, hood or device whereby the person, face or voice is disguised so as to conceal the identity of the wearer, enter, or appear upon or within the public property of any municipality or county of the State, or of the State of North Carolina. (1953, c. 1193, s. 7.)

§ 14-12.9. Entry, etc., upon premises of another while wearing mask, hood or other disguise.—No person or persons over sixteen years of age shall, while wearing a mask, hood or device whereby the person, face or voice is disguised so as to conceal the identity of the wearer, demand entrance or admission, enter or come upon or into, or be upon or in the premises, enclosure or house of any other person in any municipality or county of this State. (1953, c. 1193, s. 8.)

§ 14-12.10. Holding meetings or demonstrations while wearing masks, hoods, etc.—No person or persons over sixteen years of age shall while wearing a mask, hood or device whereby the person, face or voice is disguised so as to conceal the identity of the wearer, hold any manner of meeting, or make any demonstration upon the private property of another unless such person or persons shall first obtain from the owner or occupier of the property his or her written permission to do so, which said written permission shall be recorded in the office of the register of deeds of the county in which said property is located before the beginning of such meeting or demonstration. (1953, c. 1193, s. 9.)

§ 14-12.11. Exemptions from provisions of article.—The following are exempted from the provisions of §§ 14-12.7, 14-12.8, 14-12.9, 14-12.10 and 14-12.14: (a) any person or persons wearing traditional holiday costumes in season; (b) any person or persons engaged in trades and employment where a mask is worn for the purpose of ensuring the physical safety of the wearer, or because of the nature of the occupation, trade or profession; (c) any person or persons using masks in theatrical productions including use in Mardi Gras celebrations and masquerade balls; (d) persons wearing gas masks prescribed in civil defense drills and exercises or emergencies; and (e) any person or persons, as members or members elect of a society, order or organization, engaged in any parade, ritual, initiation, ceremony, celebration or requirement of such society, order or organization, and wearing or using any manner of costume, paraphernalia, disguise, facial make-up, hood, implement or device, whether the identity of such person or persons is concealed or not, on any public or private street, road, way or property, or in any public or private building, provided permission shall have been first obtained therefor by a representative of such society, order or organization from the governing body of the municipality in which the same takes place, or, if not in a municipality, from the board of county commissioners of the county in which the same takes place.

Provided, that the provisions of this article shall not apply to any preliminary meetings held in good faith for the purpose of organizing, promoting or forming a labor union or a local organization or subdivision of any labor union nor shall the provisions of this article apply to any meetings held by a labor union or organization already organized, operating and functioning and holding meetings for the purpose of transacting and carrying out functions, pursuits and affairs expressly pertaining to such labor union. (1953, c. 1193, s. 10.)

§ 14-12.12. Placing burning or flaming cross on property of another or on public street or highway.—(a) It shall be unlawful for any person or persons to place or cause to be placed on the property of another in this State a burning or flaming cross or any manner of exhibit in which a burning or flaming cross, real or simulated, is a whole or a part, without first obtaining written permission of the owner or occupier of the premises so to do.

(b) It shall be unlawful for any person or persons to place or cause to be placed on the property of another in this State or on a public street or highway, a burning or flaming cross or any manner of exhibit in which a burning or flaming cross real or simulated, is a whole or a part, with the intention of intimidating any person or persons or of preventing them from doing any act which is lawful, or causing them to do any act which is unlawful. (1953, c. 1193, s. 11; 1967, c. 522, ss. 1, 2.)

Editor's Note.—The 1967 amendment designated the former provisions of this section as subsection (a) and added subsection (b).

§ 14-12.13. Placing exhibit with intention of intimidating, etc., another.—It shall be unlawful for any person or persons to place or cause to be placed anywhere in this State any exhibit of any kind whatsoever, while masked or unmasked, with the intention of intimidating any person or persons, or of preventing them from doing any act which is lawful, or of causing them to do any act which is unlawful. (1953, c. 1193, s. 12.)

§ 14-12.14. Placing exhibit while wearing mask, hood, or other disguise.—It shall be unlawful for any person or persons, while wearing a mask, hood or device whereby the person, face or voice is disguised so as to conceal the identity of the wearer, to place or cause to be placed at or in any place in the State any exhibit of any kind whatsoever, with the intention of intimidating any person or persons, or of preventing them from doing any act which is lawful, or of causing them to do any act which is unlawful. (1953, c. 1193, s. 13; 1967, c. 522, s. 3.)

Editor's Note.—The 1967 amendment added at the end of the section "with the intention of intimidating any person or persons, or of preventing them from doing any act which is lawful, or of causing them to do any act which is unlawful."

§ 14-12.15. Punishment for violation of article.—All persons violating any of the provisions of this article, except for §§ 14-12.12 (b), 14-12.13, and 14-12.14, shall be guilty of a misdemeanor, and upon conviction shall be fined or imprisoned in the discretion of the court. All persons violating the provisions of §§ 14-12.12 (b), 14-12.13, and 14-12.14 shall be guilty of a felony and shall be punished by confinement in the State prison for not less than one nor more than five years. (1953, c. 1193, s. 14; 1967, c. 602.)

Editor's Note.—The 1967 amendment rewrote this section, which formerly made any violation of this article a misdemeanor, punishable by fine or imprisonment in the discretion of the court.

SUBCHAPTER III. OFFENSES AGAINST THE PERSON.

ARTICLE 8.

Assaults.

§ 14-31. Maliciously assaulting in a secret manner.—If any person shall in a secret manner maliciously commit an assault and battery with any deadly weapon upon another by waylaying or otherwise, with intent to kill such other person, notwithstanding the person so assaulted may have been conscious of the presence of his adversary, he shall be guilty of a felony punishable by a fine or imprisonment for not less than one nor more than twenty years, or both such fine and imprisonment. (1887, c. 32; Rev., s. 3621; 1919, c. 25; C. S., s. 4213; 1969, c. 602, s. 1.)

Editor's Note.—
The 1969 amendment rewrote the provisions relating to punishment.

§ 14-32. Felonious assault with deadly weapon with intent to kill or inflicting serious injury; punishments.—(a) Any person who assaults another person with a deadly weapon with intent to kill and inflicts serious injury is guilty of a felony punishable by a fine, imprisonment for not more than 20 years, or both such fine and imprisonment.

(b) Any person who assaults another person with a deadly weapon and inflicts serious injury is guilty of a felony punishable by a fine, imprisonment for not more than 10 years, or both such fine and imprisonment.

(c) Any person who assaults another person with a deadly weapon with intent to kill is guilty of a felony punishable by a fine, imprisonment for not more than 10 years, or both such fine and imprisonment. (1919, c. 101; C. S., s. 4214; 1931, c. 145, s. 30; 1969, c. 602, s. 2; 1971, c. 765, s. 1; c. 1093, s. 12; 1973, c. 229, ss. 1-3.)

Editor's Note.—
The 1973 amendment, effective Jan. 1, 1974, substituted "20 years" for "10 years" in subsection (a) and "10 years" for "five years" in subsections (b) and (c) and substituted "deadly weapon" for "firearm" in subsection (c).

Section 5 of the 1973 amendatory act provides: "This act does not apply to any offense committed prior to the effective date of this act, and any such offense is punishable as provided by the statute in force at the time such offense was committed."

§ 14-33. Misdemeanor assaults, batteries, and affrays; simple and aggravated; punishments.—(a) Any person who commits a simple assault or a simple assault and battery or participates in a simple affray is guilty of a misdemeanor punishable by a fine not to exceed fifty dollars ($50.00) or imprisonment for not more than 30 days.

(b) Unless his conduct is covered under some other provision of law providing greater punishment, any person who commits any assault, assault and battery, or affray is guilty of a misdemeanor punishable by a fine, imprisonment for not more than two years, or both such fine and imprisonment if, in the course of the assault, assault and battery, or affray, he:

(1) Inflicts, or attempts to inflict, serious injury upon another person or uses a deadly weapon; or
(2) Assaults a female, he being a male person over the age of 18 years; or
(3) Assaults a child under the age of 12 years; or

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(4) Assaults a law-enforcement officer or a custodial officer of the State Department of Correction, while the officer is discharging or attempting to discharge a duty of his office. (1870-1, c. 43, s. 2; 1873-4, c. 176, s. 6; 1879, c. 92, ss. 2, 6; Code, s. 987; Rev., s. 3620; 1911, c. 193; C. S., s. 4215; 1933, c. 189; 1949, c. 298; 1969, c. 618, s. 1; 1971, c. 765, s. 2; 1973, c. 229, s. 4; c. 1413.)

Editor's Note. — The 1973 amendment substituted "law-enforcement officer or a custodial officer of the State Department of Correction" for "public officer" in subdivision (4) of subsection (b).

§ **14-34. Assaulting by pointing gun.**—If any person shall point any gun or pistol at any person, either in fun or otherwise, whether such gun or pistol be loaded or not loaded, he shall be guilty of an assault, and upon conviction of the same shall be punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment not to exceed six (6) months, or both such fine and imprisonment. (1889, c. 527; Rev., s. 3622; C. S., s. 4216; 1969, c. 618, s. 2½.)

Editor's Note.—The 1969 amendment substituted "punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment not to exceed six (6) months, or both such fine and imprisonment" for "fined, imprisoned, or both, at the discretion of the court."

§ **14-34.1. Discharging firearm into occupied property.**—Any person who wilfully or wantonly discharges a firearm into or attempts to discharge a firearm into any building, structure, vehicle, aircraft, watercraft, or other conveyance, device, equipment, erection, or enclosure while it is occupied is guilty of a felony punishable as provided in § 14-2. (1969, c. 341; c. 869, s. 7.)

Editor's Note. — The 1969 amendment rewrote this section.

§ **14-34.2. Assault with a firearm upon law-enforcement officer or fireman.**—Any person who shall commit an assault with a firearm upon any law-enforcement officer or fireman while such officer or fireman is in the performance of his duties shall be guilty of a felony and shall be fined or imprisoned for a term not to exceed five years in the discretion of the court. (1969, c. 1134.)

ARTICLE 10.

Kidnapping and Abduction.

§ **14-39. Kidnapping.**—It shall be unlawful for any person, firm or corporation, or any individual, male or female, or its or their agents, to kidnap or cause to be kidnapped any human being, or to demand a ransom of any person, firm or corporation, male or female, to be paid on account of kidnapping, or to hold any human being for ransom: Provided, however, that this section shall not apply to a father or mother for taking into their custody their own child.

Any person, or their agent, violating or causing to be violated any provisions of this section shall be guilty of a felony, and upon conviction therefor, shall be punishable by imprisonment for life.

Any firm or corporation violating, or causing to be violated through their agent or agents, any of the provisions of this section, and upon being found guilty, shall be liable to the injured party suing therefor, the sum of twenty-five thousand dollars ($25,000), and shall forfeit its or their charter and right to do business in the State of North Carolina. (1933, c. 542.)

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ARTICLE 13.

Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material.

§ 14-49. Malicious use of explosive or incendiary; attempt; punishment.—(a) Any person who wilfully and maliciously injures or attempts to injure another by the use of any explosive or incendiary device or material is guilty of a felony.

(b) Any person who wilfully and maliciously damages or attempts to damage any real or personal property of any kind or nature belonging to another by the use of any explosive or incendiary device or material is guilty of a felony.

(c) Any person who violates any provision of this section is punishable by imprisonment in the State's prison for not less than five nor more than thirty years. (1923, c. 80, s. 1; C. S., s. 4231(a); 1951, c. 1126, s. 1; 1969, c. 869, s. 6.)

Editor's Note.—
The 1969 amendment rewrote this section.

§ 14-49.1. Malicious damage of occupied property by use of explosive or incendiary; attempt; punishment.—Any person who wilfully and maliciously damages or attempts to damage any real or personal property of any kind or nature, being at the time occupied by another, by the use of any explosive or incendiary device or material is guilty of a felony punishable by imprisonment in the State's prison for not less than ten years nor more than imprisonment for life. (1967, c. 342; 1969, c. 869, s. 6.)

Editor's Note. — The 1969 amendment rewrote this section.

§ 14-50. Conspiracy to injure or damage by use of explosive or incendiary; punishment.—(a) Any person who conspires with another wilfully and maliciously to injure another by the use of any explosive or incendiary device or material is guilty of a felony.

(b) Any person who conspires with another wilfully and maliciously to damage any real or personal property of any kind or nature belonging to another by the use of any explosive or incendiary device or material is guilty of a felony.

(c) Any person who violates any provision of this section is punishable by imprisonment in the State's prison for not more than fifteen years. (1923, c. 80, s. 2; C. S., s. 4231(b); 1951, c. 1126, s. 1; 1969, c. 869, s. 6.)

Editor's Note.—
The 1969 amendment rewrote this section.

§ 14-50.1. Explosive or incendiary device or material defined.—As used in this article, "explosive or incendiary device or material" means nitroglycerine, dynamite, gunpowder, other high explosive, incendiary bomb or grenade, other destructive incendiary device, or any other destructive incendiary or explosive device, compound, or formulation; any instrument or substance capable of

being used for destructive explosive or incendiary purposes against persons or property, when the circumstances indicate some probability that such instrument or substance will be so used; or any explosive or incendiary part or ingredient in any instrument or substance included above, when the circumstances indicate some probability that such part or ingredient will be so used. (1969, c. 869, s. 6.)

SUBCHAPTER IV. OFFENSES AGAINST THE HABITATION AND OTHER BUILDINGS.

ARTICLE 14.

Burglary and Other Housebreakings.

. . . .

§ 14-54. Breaking or entering buildings generally.—(a) Any person who breaks or enters any building with intent to commit any felony or larceny therein is guilty of a felony and is punishable under G.S. 14-2.

(b) Any person who wrongfully breaks or enters any building is guilty of a misdemeanor and is punishable under G.S. 14-3 (a).

(c) As used in this section, "building" shall be construed to include any dwelling, dwelling house, uninhabited house, building under construction, building within the curtilage of a dwelling house, and any other structure designed to house or secure within it any activity or property. (1874-5, c. 166; 1879, c. 323; Code, s. 996; Rev., s. 3333; C. S., s. 4235; 1955, c. 1015; 1969, c. 543, s. 3.)

Editor's Note.—
The 1969 amendment, effective May 23, 1969, rewrote this section.

ARTICLE 15.

Arson and Other Burnings.

§ 14-58. Punishment for arson. — Any person convicted of the crime of arson shall suffer punishment by imprisonment for life in the State's prison. (R. C., c. 34, s. 2; 1870-1, c. 222; Code, s. 985; Rev., s. 3335; C. S., s. 4238; 1941, c. 215, s. 2; 1949, c. 299, s. 3; 1973, c. 1201, s. 4.)

Cross References. —
As to what constitutes a sentence of life imprisonment, see § 14-2. As to eligibility of prisoners serving life sentence for parole, see § 148-58.

Editor's Note. —
The 1973 amendment rewrote this section so as to eliminate provisions for the death penalty. The 1973 amendatory act became effective April 8, 1974, and applies to all offenses thereafter committed.

§ 14-59. Burning of certain public buildings.—If any person shall wantonly and willfully set fire to or burn or cause to be burned or aid, counsel or procure the burning of, the State Capitol, the Legislative Building, the Justice Building or any building owned or occupied by the State or any of its agencies, institutions or subdivisions or by any county, incorporated city or town or other governmental or quasi-governmental entity, he shall be guilty of a felony and shall, on conviction, be imprisoned in the State's prison for not less than two nor more than 30 years, and may also be fined in the discretion of the court. (1830, c. 41, s. 1; R. C., c. 34, s. 7; 1868-9, c. 167, s. 5; Code, s. 985, subsec. 3; Rev., s. 3344; C. S., s. 4239; 1965, c. 14; 1971, c. 816, s. 1.)

Editor's Note.—The 1971 amendment rewrote this section.

§ 14-60. Burning of schoolhouses or buildings of educational institutions.—If any person shall wantonly and willfully set fire to or burn or cause to be burned or aid, counsel or procure the burning of, any schoolhouse or building owned, leased or used by any public or private school, college or educational institution, he shall be guilty of a felony, and shall, on conviction, be imprisoned in the State's prison for not less than two nor more than 30 years, and may also be fined in the discretion of the court. (1901, c. 4, s. 28; Rev., s. 3345; 1919, c. 70; C. S., s. 4240; 1965, c. 870; 1971, c. 816, s. 2.)

Editor's Note.—The 1971 amendment rewrote this section.

§ 14-62.1. Burning of building or structure in process of construction.—If any person shall wantonly and willfully set fire to or burn or cause to be burned, or aid, counsel or procure the burning of, any building or structure in the process of construction for use or intended to be used as a dwelling house or in carrying on any trade or manufacture, or otherwise, whether the same or any of them respectively shall then be in the possession of the offender, or in the possession of any other person, he shall be guilty of a felony, and shall, on conviction, be imprisoned in the State's prison for not less than two nor more than 30 years, and may also be fined in the discretion of the court. (1957, c. 792; 1971, c. 816, s. 5.)

Editor's Note. — The 1971 amendment substituted "If any person shall wantonly and willfully set fire to or burn or cause to be burned, or aid, counsel or procure the burning" for "The wilful and intentional burning," at the beginning of the section and substituted "he shall be guilty of a felony, and shall, on conviction be imprisoned in the State's prison for not less than two nor more than 30 years, and may also be fined" for "shall be a felony and punished by imprisonment in the county jail or State prison, or by fine or by both such fine and imprisonment" at the end of the section.

§ 14-66. Burning of personal property.—If any person shall wantonly and willfully set fire to or burn, or cause to be burned, or aid, counsel or procure the burning of, any goods, wares, merchandise or other chattels or personal property of any kind, whether or not the same shall at the time be insured by any person or corporation against loss or damage by fire, with intent to injure or prejudice the insurer, the creditor or the person owning the property, or any other person, whether the property is that of such person or another, he shall be guilty of a felony and shall, on conviction, be imprisoned in the State's prison for not less than four months nor more than 10 years, and may also be fined in the discretion of the court. (1921, c. 119; C. S., s. 4245 (a); 1971, c. 816, s. 9.)

Editor's Note. — The 1971 amendment rewrote this section.

§ 14-67. Attempting to burn dwelling houses and certain other buildings.—If any person shall wantonly and willfully attempt to set fire to or burn or cause to be burned any dwelling house, uninhabited house, the State Capitol, the Legislative Building, the Justice Building or any building owned or occupied by the State or any of its agencies, institutions or subdivisions or by any county, incorporated city or town or other governmental or quasi-governmental entity, any schoolhouse or building owned, leased or used by any public or private school, college or educational institution, or any public bridge, private toll bridge or the bridge of any incorporated company, or any fire-engine house or rescue-squad building, or any house belonging to an incorporated company or unincorporated association and used in the business of such company or association, any church, chapel or meetinghouse, or any stable, coach house, outhouse, warehouse, office, shop, mill, barn or granary, or any building, structure or erection used or intended

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to be used in carrying on any trade or manufacture, or otherwise, any boat, barge, ferry, or float, any ginhouse or tobacco house, or any part thereof, whether such buildings or structures or any of them shall then be in the possession of the offender or in the possession of any other person, he shall be guilty of a felony, and shall, on conviction, be imprisoned in the State's prison for not less than four months nor more than 10 years, and may also be fined in the discretion of the court. (1876-7, c. 13; Code, s. 985, subsec. 7; Rev., s. 3336; C. S., s. 4246; 1957, c. 250, s. 1; 1959, c. 1298, s. 2; 1971, c. 816, s. 10.)

Editor's Note. — The 1971 amendment rewrote this section.

§ **14-67.1. Burning or attempting to burn other buildings.**—If any person shall wantonly and willfully set fire to or burn or cause to be burned or aid, counsel or procure the burning of, or attempt to burn, any building or other structure of any type not otherwise covered by the provisions of this Article, he shall be guilty of a felony, and shall, on conviction, be imprisoned in the State's prison for not less than four months nor more than 10 years, and may also be fined in the discretion of the court. (1971, c. 816, s. 11.)

. . . .

§ **14-69.1. Making a false report concerning destructive device.** —If any person shall, by any means of communication to any person or group of persons, make a report, knowing or having reason to know the same to be false, that there is located in any building, house or other structure whatsoever or any vehicle, aircraft, vessel or boat any device designed to destroy or damage the building, house or structure or vehicle, aircraft, vessel or boat by explosion, blasting or burning, he shall be guilty of a misdemeanor, and shall, upon conviction, be fined or imprisoned or both in the discretion of the court. (1959, c. 555, s. 1.)

Cited in State v. Smith, 267 N.C. 755, 148 S.E.2d 844 (1966).

§ **14-69.2. Perpetrating hoax by use of false bomb or other device.**—If any person, with intent to perpetrate a hoax, shall secrete, place or display any device, machine, instrument or artifact, so as to cause any person reasonably to believe the same to be a bomb or other device capable of causing injury to persons or property, he shall be guilty of a misdemeanor, and shall, upon conviction, be fined or imprisoned or both in the discretion of the court. (1959, c. 555, s. 1.)

SUBCHAPTER V. OFFENSES AGAINST PROPERTY.

ARTICLE 16.

Larceny.

§ **14-70. Distinctions between grand and petit larceny abolished; punishment; accessories to larceny.**—All distinctions between petit and grand larceny are abolished. Unless otherwise provided by statute, larceny is a felony punishable under G.S. 14-2 and is subject to the same rules of criminal procedure and principles of law as to accessories before and after the fact as other felonies. (R. C., c. 34, s. 26; Code, s. 1075; Rev., s. 3500; C. S., s. 4249; 1969, c. 522, s. 1.)

Editor's Note.—The 1969 amendment rewrote this section.

§ **14-71. Receiving stolen goods.** — If any person shall receive any chattel, property, money, valuable security or other thing whatsoever, the stealing or taking whereof amounts to larceny or a felony, either at common law or by virtue of any statute made or hereafter to be made, such person knowing the same to have been feloniously stolen or taken, he shall be guilty of a criminal offense, and may be indicted and convicted, whether the felon stealing and taking such chattels, property, money, valuable security or other thing, shall or shall not have been previously convicted, or shall or shall not be amenable to justice; and any such receiver may be dealt with, indicted, tried and punished in any county in which he shall have, or shall have had, any such property in his possession or in any county in which the thief may be tried, in the same manner as such receiver may be dealt with, indicted, tried and punished in the county where he actually received such chattel, money, security, or other thing; and such receiver shall be punished as one convicted of larceny. (1797, c. 485, s. 2; R. C., c. 34, s. 56; Code, s. 1074; Rev., s. 3507; C. S., s. 4250; 1949, c. 145, s. 1.)

§ **14-72. Larceny of property; receiving stolen goods not exceeding two hundred dollars in value.**—(a) Except as provided in subsections (b) and (c) below, the larceny of property, or the receiving of stolen goods knowing them to be stolen, of the value of not more than two hundred dollars ($200.00) is a misdemeanor punishable under G.S. 14-3 (a). In all cases of doubt the jury shall, in the verdict, fix the value of the property stolen.

(b) The crime of larceny is a felony, without regard to the value of the property in question, if the larceny is:

(1) From the person; or

(2) Committed pursuant to a violation of G.S. 14-51, 14-53, 14-54 or 14-57; or

(3) Of any explosive or incendiary device or substance. As used in this section, the phrase "explosive or incendiary device or substance" shall include any explosive or incendiary grenade or bomb; any dynamite, blasting powder, nitroglycerin, TNT, or other high explosive; or any device, ingredient for such device, or type or quantity of substance primarily useful for large-scale destruction of property by explosive or incendiary action or lethal injury to persons by explosive or incendiary action. This definition shall not include fireworks; or any form, type, or quantity of gasoline, butane gas, natural gas, or any other substance having explosive or incendiary properties but serving a legitimate nondestructive or nonlethal use in the form, type, or quantity stolen.

(4) Of any firearm. As used in this section, the term "firearm" shall include any instrument used in the propulsion of a shot, shell or bullet by the action of gunpowder or any other explosive substance within it. A "firearm," which at the time of theft is not capable of being fired, shall be included within this definition if it can be made to work. This definition shall not include air rifles or air pistols.

(c) The crime of receiving stolen goods knowing them to be stolen in the circumstances described in subsection (b) is a felony, without regard to the value of the property in question. (1895, c. 285; Rev., s. 3506; 1913, c. 118, s. 1; C. S., s. 4251; 1941, c. 178, s. 1; 1949, c. 145, s. 2; 1959, c. 1285; 1961, c. 39, s. 1; 1965, c. 621, s. 5; 1969, c. 522, s. 2; 1973, c. 238, ss. 1, 2.)

Editor's Note.—

The 1969 amendment rewrote this section.

The 1973 amendment, effective July 1, 1973, deleted "any weapon, gunpowder, ammunition, or other device or substance primarily useful in hunting or sports; any antique or souvenir weapon or ammunition" following "fireworks;" in subdivision (3) and added subdivision (4) of subsection (b).

Session Laws 1973, c. 238, s. 3, provides: "This act shall only apply to crimes committed after July 1, 1973."

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ARTICLE 20.

Frauds.

§ 14-118.2. Assisting, etc., in obtaining academic credit by fraudulent means.—(a) It shall be unlawful for any person, firm, corporation or association to assist any student, or advertise, offer or attempt to assist any student, in obtaining or in attempting to obtain, by fraudulent means, any academic credit, or any diploma, certificate or other instrument purporting to confer any literary, scientific, professional, technical or other degree in any course of study in any university, college, academy or other educational institution. The activity prohibited by this subsection includes, but is not limited to, preparing or advertising, offering, or attempting to prepare a term paper, thesis, or dissertation for another and impersonating or advertising, offering or attempting to impersonate another in taking or attempting to take an examination.

(b) Any person, firm, corporation or association violating any of the provisions of this section shall be guilty of a misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both. Provided, however, the provisions of this section shall not apply to the acts of one student in assisting another student as herein defined if the former is duly registered in an educational institution and is subject to the disciplinary authority thereof. (1963, c. 781; 1969, c. 1224, s. 7.)

Editor's Note. — The 1969 amendment substituted in the first sentence of subsection (b), the present provisions as to punishment for a provision for punishment by fine or imprisonment, or both, in the discretion of the court.

For note on avoidance of releases in personal injury cases in North Carolina, see 5 Wake Forest Intra L. Rev. 359 (1969).

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SUBCHAPTER VI. CRIMINAL TRESPASS.

ARTICLE 22.

Trespasses to Land and Fixtures.

§ 14-126. Forcible entry and detainer.—No one shall make entry into any lands and tenements, or term for years, but in case where entry is given by law; and in such case, not with strong hand nor with multitude of people, but only in a peaceable and easy manner; and if any man do the contrary, he shall be guilty of a misdemeanor. (5 Ric. II, c. 8; R. C., c. 49, s. 1; Code, s. 1028; Rev., s. 3670; C. S., s. 4300.)

§ 14-127. Wilful and wanton injury to real property.—If any person shall wilfully and wantonly damage, injure or destroy any real property whatsoever, either of a public or private nature, he shall be guilty of a misdemeanor and shall be punished by fine or imprisonment or both, in the discretion of the court. (R. C., c. 34, s. 111; 1873-4, c. 176, s. 5; Code, s. 1081; Rev., s. 3677; C. S., s. 4301; 1967, c. 1083.)

Editor's Note.—The 1967 amendment rewrote this section.

Former Law. — See State v. Childress, 267 N.C. 85, 147 S.E.2d 595 (1966); State v. Fisher, 270 N.C. 315, 154 S.E.2d 333 (1967).

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§ 14-132. Disorderly conduct in and injuries to public buildings and facilities.—(a) It is a misdemeanor if any person shall:

(1) Make any rude or riotous noise, or be guilty of any disorderly conduct, in or near any public building or facility; or

(2) Unlawfully write or scribble on, mark, deface, besmear, or injure the walls of any public building or facility, or any statue or monument situated in any public place; or

(3) Commit any nuisance in or near any public building or facility.

(b) Any person in charge of any public building or facility owned or controlled by the State, any subdivision of the State, or any other public agency shall have authority to arrest summarily and without warrant for a violation of this section.

(c) The term "public building or facility" as used in this section includes any building or facility which is:

(1) One to which the public or a portion of the public has access and is owned or controlled by the State, any subdivision of the State, any other public agency, or any private institution or agency of a charitable, educational, or eleemosynary nature; or

(2) Dedicated to the use of the general public for a purpose which is primarily concerned with public recreation, cultural activities, and other events of a public nature or character.

The term "building or facility" as used in this section also includes the surrounding grounds and premises of any building or facility used in connection with the operation or functioning of such building or facility.

(d) Any person who violates any provision of this section is guilty of a misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both. (1829, c. 29, ss. 1, 2; 1842, c. 47; R. C., c. 103, ss. 7, 8; Code, s. 2308; Rev., s. 3742; 1915, c. 269; C. S., s. 4303; 1969, c. 869, s. 7½.)

Editor's Note. — The 1969 amendment rewrote this section.

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§ 14-132.1. Demonstrations or assemblies of persons kneeling or lying down in public buildings.—If any person, persons, group or assembly of persons, after being forbidden to do so by the supervisor, keeper, custodian or person in charge of any public building of the State or of any county or municipality shall go or enter into such public building so owned by the State, county or municipality or shall enter upon the lands in or near any such public building and shall engage in sitting, kneeling, lying down or inclining so as to obstruct the ingress or egress of members of the public in the use of said building for normal business affairs or who shall congregate, assemble or by groups or formations, whether organized or unorganized, or by any method or manner whatsoever, so as to block or interfere with the customary, normal use o said building or the land or grounds in, around and adjacent to said building, such person or persons shall be guilty of a misdemeanor, and upon conviction, plea of guilty or nolo contendere, shall be punished by a fine of not more than five hundred dollars ($500.00) or imprisonment of not more than six months, or both, in the discretion of the court. (1965, c. 1183; 1969, c. 740.)

Editor's Note. — The 1969 amendment substituted "of not more than five hundred dollars ($500.00) or imprisonment of not more than six months, or both, in the discretion of the court" for "not to exceed fifty dollars ($50.00) or by imprisonment not to exceed thirty days, or both such fine or imprisonment" at the end of the section.

§ 14-134. Trespass on land after being forbidden; license to look for estrays.—If any person after being forbidden to do so, shall go or enter upon the lands of another, without a license therefor, he shall be guilty of a misdemeanor, and on conviction, shall be guilty of a misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both: Provided, that if any person shall make a written affidavit before a magistrate of the county that any of his cattle or other livestock (which shall be specially described in such affidavit) have strayed away, and that he has good reason to believe that they are on the lands of a certain other person, then the magistrate may, in his discretion, allow the affiant to enter on the premises of such person with one or more servants, without firearms, in the daytime (Sunday excepted), between the hours of sunrise and sunset, and make search for his estrays for such limited time as to the magistrate shall appear reasonable. The only effect of such license shall be to protect the persons entering from indictment therefor, and the license shall have this effect only where it is made bona fide and the entry is effected without any damage except such as may be necessary to conduct the search. (1866, c. 60; Code, s. 1120; Rev., s. 3688; C. S., s. 4305; 1963, c. 1106; 1969, c. 1224, s. 12; 1973, c. 108, s. 3.)

Editor's Note.—

The 1973 amendment substituted "magistrate" for "justice of the peace" in one place and for "justice" in two places in the proviso to the first sentence.

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§ 14-136. Setting fire to grass and brush lands and woodlands.—If any person shall intentionally set fire to any grassland, brushland or woodland, except it be his own property, or in that case without first giving notice to all persons owning or in charge of lands adjoining the land intended to be fired, and without also taking care to watch such fire while burning and to extinguish it before it shall reach any lands near to or adjoining the lands so fired, he shall for every such offense be guilty of a misdemeanor and shall be fined not less than fifty dollars nor more than five hundred dollars, or imprisoned for a period of not less

than sixty days nor more than four months for the first offense, and for a second or any subsequent similar offense shall be imprisoned not less than four months nor more than one year. If willful or malicious intent to damage the property of another shall be shown, said person shall be guilty of a felony, and shall, upon conviction, be punished by imprisonment in the State prison for not less than one nor more than five years. This section shall not prevent an action for the damages sustained by the owner of any property from such fires. For the purposes of this section, the term "woodland" is to be taken to include all forest areas, both timber and cut-over land, and all second-growth stands on areas that have at one time been cultivated. Any person who shall furnish to the State evidence sufficient for the conviction of a violation of this statute shall receive the sum of fifty dollars, to be taxed as part of the court costs.

ARTICLE 23.

Trespasses to Personal Property.

§ 14-160. **Wilful and wanton injury to personal property; punishments.**—(a) If any person shall wantonly and wilfully injure the personal property of another he shall be guilty of a misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months or both.

(b) Notwithstanding the provisions of subsection (a), if any person shall wantonly and wilfully injure the personal property of another, causing damage in an amount in excess of two hundred dollars ($200.00), he shall be guilty of a misdemeanor punishable as provided in § 14-3 (a).

(c) This section applies to injuries to personal property without regard to whether the property is destroyed or not. (1876-7, c. 18; Code, s. 1082; 1885, c. 53; Rev., s. 3676; C. S., s. 4331; 1969, c. 1224, s. 14.)

Editor's Note. — The 1969 amendment, effective Oct. 1, 1969, rewrote this section.

SUBCHAPTER VII. OFFENSES AGAINST PUBLIC MORALITY AND DECENCY.

ARTICLE 26.

Offenses against Public Morality and Decency.

§ 14-190.1. Obscene literature and exhibitions. — (a) It shall be unlawful for any person, firm or corporation to intentionally disseminate obscenity in any public place. A person, firm or corporation disseminates obscenity within the meaning of this Article if he or it:

(1) Sells, delivers or provides or offers or agrees to sell, deliver or provide any obscene writing, picture, record or other representation or embodiment of the obscene; or
(2) Presents or directs an obscene play, dance or other performance or participates directly in that portion thereof which makes it obscene; or
(3) Publishes, exhibits or otherwise makes available anything obscene; or
(4) Exhibits, presents, rents, sells, delivers or provides; or offers or agrees to exhibit, present, rent or to provide: any obscene still or motion picture, film, filmstrip, or projection slide, or sound recording, sound tape, or sound track, or any matter or material of whatever form which is a representation, embodiment, performance, or publication of the obscene.

(b) For purposes of this Article any material is obscene if:

(1) The material depicts or describes in a patently offensive way sexual conduct specifically defined by subsection (c) of this section; and
(2) The average person applying contemporary statewide community standards relating to the depiction or representation of sexual matters would find that the material taken as a whole appeals to the prurient interest in sex; and
(3) The material lacks serious literary, artistic, political, educational or scientific value; and
(4) The material as used is not protected or privileged under the Constitution of the United States or the Constitution of North Carolina.

(c) Sexual conduct shall be defined as:
(1) Patently offensive representations or descriptions of actual sexual intercourse, normal or perverted, anal or oral;
(2) Patently offensive representations or descriptions of excretion in the context of sexual activity or a lewd exhibition of uncovered genitals, in the context of masturbation or other sexual activity.

(d) Obscenity shall be judged with reference to ordinary adults except that it shall be judged with reference to children or other especially susceptible audiences if it appears from the character of the material or the circumstances of its dissemination to be especially designed for or directed to such children or audiences. In any prosecution for an offense involving dissemination of obsenity under this Article, evidence shall be admissible to show:
(1) The character of the audience for which the material was designed or to which it was directed;
(2) Whether the material is published in such a manner that an unwilling adult could not escape it;
(3) Whether the material is exploited so as to amount to pandering;
(4) What the predominant appeal of the material would be for ordinary adults or a special audience, and what effect, if any, it would probably have on the behavior of such people;
(5) Literary, artistic, political, educational, scientific, or other social value, if any, of the material;
(6) The degree of public acceptance of the material throughout the State of North Carolina;
(7) Appeal to prurient interest, or absence thereof, in advertising or in the promotion of the material.

Expert testimony and testimony of the auditor, creator or publisher relating to factors entering into the determination of the issue of obscenity shall also be admissible.

(e) It shall be unlawful for any person, firm or corporation to knowingly and intentionally create, buy, procure or possess obscene material with the purpose and intent of disseminating it unlawfully.

(f) It shall be unlawful for a person, firm or corporation to advertise or otherwise promote the sale of material represented or held out by said person, firm or corporation as obscene.

(g) Any person, firm or corporation violating the provisions of this section shall be guilty of a misdemeanor and, unless a greater penalty is expressly provided for in this Article, shall be fined or imprisoned in the discretion of the court. (1971, c. 405, s. 1; 1973, c. 1434, s. 1.)

Editor's Note. — The 1973 amendment, effective July 1, 1974, deleted "broadcasts, televises" following "Exhibits," and "broadcast, televise" following "exhibit" near the beginning of subdivision (4) of subsection (a), rewrote subdivisions (1) through (3) of subsection (b), added present subsection (c) and redesignated former subsections (c) through (f) as (d) through (g), inserted "political" and made minor changes in wording in subdivision (5) of present subsection (d) and substituted "State of North Carolina" for "United States" at the end of subdivision (6) of present subsection (d).

§ 14-190.2. Adversary hearing prior to seizure.—

§ 14-190.3. Exhibition of obscene pictures; posting of advertisements.—If any person, firm or corporation shall intentionally disseminate in any public place any motion picture which he or it knows or reasonably should know to be obscene within the meaning of G.S. 14-190.1, or, if any person, firm or corporation shall intentionally post any placard, writings, pictures, or drawings, which he or it knows or reasonably should know to be obscene within the meaning of G.S. 14-190.1, on walls, fences, billboards, or other public places; or, if any person, firm or corporation shall intentionally permit any exhibition or show, which he or it knows or reasonably should know to be obscene within the meaning of G.S. 14-190.1, to be conducted in any public place owned or controlled by said person, firm or corporation; the person, firm or corporation performing either one or all of the said acts shall be guilty of a misdemeanor and unless a greater penalty is expressly provided for in this Article, shall be punishable in the discretion of the court. (1971, c. 405, s. 1.)

Cross Reference.—See note to § 14-190.1. Laws 1971, makes the act effective July 1, 1971.
Editor's Note.—Section 5, c. 405, Session

§ 14-190.4. Coercing acceptance of obscene articles or publications.—No person, firm or corporation shall, as a condition to any sale, allocation, consignment or delivery for resale of any paper, magazine, book, periodical or publication require that the purchaser or consignee receive for resale any other article, book, or publication which is obscene within the meaning of G.S. 14-190.1; nor shall any person, firm or corporation deny or threaten to deny any franchise or impose or threaten to impose any penalty, financial or otherwise, by reason of the failure or refusal of any person to accept such articles, books, or publications, or by reason of the return thereof. Any violation of this section shall be a misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both. (1971, c. 405, s. 1.)

Cross Reference.—See note to § 14-190.1. Laws 1971, makes the act effective July 1, 1971.
Editor's Note.—Section 5, c. 405, Session

§ 14-190.5. Preparation of obscene photographs, slides and motion pictures.—Every person who knowingly:

(1) Photographs himself or any other person, for purposes of preparing an obscene film, photograph, negative, slide or motion picture for the purpose of dissemination in a public place; or

(2) Models, poses, acts, or otherwise assists in the preparation of any obscene film, photograph, negative, slide or motion picture for the purpose of dissemination in a public place, shall be guilty of a misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both. (1971, c. 405, s. 1.)

Cross Reference.—See note to § 14-190.1. Laws 1971, makes the act effective July 1, 1971.
Editor's Note.—Section 5, c. 405, Session

§ 14-190.6. Employing or permitting minor to assist in offense under Article.—Every person 18 years of age or older who intentionally, in any manner, hires, employs, uses or permits any minor under the age of 16 years to do or assist in doing any act or thing constituting an offense under this Article and involving any material, act or thing he knows or reasonably should know to be obscene within the meaning of G.S. 14-190.1, shall be guilty of a misdemeanor, and unless a greater penalty is expressly provided for in this Article, shall be punishable in the discretion of the court. (1971, c. 405, s. 1.)

Cross Reference.—See note to § 14-190.1. Laws 1971, makes the act effective July 1, 1971.
Editor's Note.—Section 5, c. 405, Session

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§ 14-190.7. Dissemination to minors under the age of 16 years.—Every person 18 years of age or older who knowingly disseminates to any minor under the age of 16 years any material which he knows or reasonably should know to be obscene within the meaning of G.S. 14-190.1 shall be guilty of a misdemeanor and unless a greater penalty is expressly provided for in this Article, shall be punishable in the discretion of the court. (1971, c. 405, s. 1.)

Cross Reference.—See note to § 14-190.1. **Editor's Note.**—Section 5, c. 405, Session Laws 1971, makes the act effective July 1, 1971.

§ 14-190.8. Dissemination to minors 12 years of age or younger.—Every person 18 years of age or older who knowingly disseminates to any minor 12 years of age or younger any material which he knows or reasonably should know to be obscene within the meaning of G.S. 14-190.1 shall be guilty of a felony and upon conviction shall be imprisoned in the State's prison for not more than five years and shall be fined at the discretion of the court. (1971, c. 405, s. 1.)

Cross Reference.—See note to § 14-190.1. **Editor's Note.**—Section 5, c. 405, Session Laws 1971, makes the act effective July 1, 1971.

§ 14-190.9. Indecent exposure.—Any person who shall willfully expose the private parts of his or her person in any public place and in the presence of any other person or persons, of the opposite sex, or aids or abets in any such act, or who procures another to perform such act; or any person, who as owner, manager, lessee, director, promoter or agent, or in any other capacity knowingly hires, leases or permits the land, building, or premises of which he is owner, lessee or tenant, or over which he has control, to be used for purposes of any such act, shall be guilty of a misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both. (1971, c. 591, s. 1.)

Interpretation of Section. — Section 2, c. 591, Session Laws 1971, provides: "Every word, clause, sentence, paragraph, section, or other part of this act shall be interpreted in such manner as to be as expansive as the Constitution of the United States and the Constitution of North Carolina permit."

Section 3, c. 591, Session Laws 1971, provides: "If any word, clause, sentence, paragraph, section, or other part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof."

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SUBCHAPTER VIII. OFFENSES AGAINST PUBLIC JUSTICE.

ARTICLE 30.

Obstructing Justice.

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§ 14-223. Resisting officers.—If any person shall willfully and unlawfully resist, delay or obstruct a public officer in discharging or attempting to discharge a duty of his office, he shall be guilty of a misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both. (1889, c. 51, s. 1; Rev., s. 3700; C. S., s. 4378; 1969, c. 1224, s. 1.)

Editor's Note. — The 1969 amendment, effective Oct. 1, 1969, added, at the end of the section, "punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both."

§ **14-224. Failing to aid police officers.**—If any person, after having been lawfully commanded to aid an officer in arresting any person, or in retaking any person who has escaped from legal custody, or in executing any legal process, willfully neglects or refuses to aid such officer, he shall be guilty of a misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both. (1889, c. 51, s. 2; Rev., s. 3701; C. S., s. 4379; 1969, c. 1224, s. 1.)

Editor's Note. — The 1969 amendment, effective Oct. 1, 1969, added, at the end of the section, "punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both."

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§ **14-226.1. Violating orders of court.**—Any person who shall wilfully disobey or violate any injunction, restraining order, or any order lawfully issued by any court for the purpose of maintaining or restoring public safety and public order, or to afford protection for lives or property during times of a public crisis, disaster, riot, catastrophe, or when such condition is imminent, or for the purpose of preventing and abating disorderly conduct as defined in G.S. 14-288.4 shall be guilty of a misdemeanor, and upon conviction, shall be fined not more than two hundred fifty dollars ($250.00) or imprisoned for not more than thirty days, or both, in the discretion of the court. This section shall not in any manner affect the court's power to punish for contempt. (1969, c. 1128.)

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SUBCHAPTER IX. OFFENSES AGAINST THE PUBLIC PEACE.

ARTICLE 35.

Offenses against the Public Peace.

§ **14-269. Carrying concealed weapons.**—If anyone, except when on his own premises, shall wilfully and intentionally carry concealed about his person any bowie knife, dirk, dagger, sling shot, loaded cane, brass, iron or metallic knuckles, razor, pistol, gun or other deadly weapon of like kind, he shall be guilty of a misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both. This section shall not apply to the following persons: Officers and enlisted personnel of the armed forces of the United States when in discharge of their official duties as such and acting under orders requiring them to carry arms or weapons, civil officers of the United States while in the discharge of their official duties, officers and soldiers of the militia and the State guard when called into actual service, officers of the State, or of any county, city, or town, charged with the execution of the laws of the State, when acting in the discharge of their official duties. (Code, s. 1005; Rev., s. 3708; 1917, c. 76; 1919, c. 197, s. 8; C. S., s. 4410; 1923, c. 57; Ex. Sess. 1924, c. 30; 1929, cc. 51, 224; 1947, c. 459; 1949, c. 1217; 1959, c. 1073, s. 1; 1965, c. 954, s. 1; 1969, c. 1224, s. 7.)

Editor's Note.—

The 1969 amendment, effective Oct. 1, 1969, substituted, at the end of the first sentence, the present provisions as to punishment for a provision for punishment by fine or imprisonment at the discretion of the court.

Session Laws 1969, c. 1117, amends Session Laws 1965, c. 954, s. 2½, as amended, by adding at the end thereof: "The provisions of G.S. 14-269 (b) prior to amendment by this act shall be effective as to these counties."

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§ 14-269.2. Weapons on campus or other educational property.—It shall be unlawful for any person to possess, or carry, whether openly or concealed, any gun, rifle, pistol, dynamite cartridge, bomb, grenade, mine, powerful explosive as defined in G.S. 14-284.1, bowie knife, dirk, dagger, slungshot, leaded cane, switch-blade knife, blackjack, metallic knuckles or any other weapon of like kind, not used solely for instructional or school sanctioned ceremonial purposes, in any public or private school building or bus, on any public or private school campus, grounds, recreation area, athletic field, or other property owned, used or operated by any board of education, school, college, or university board of trustees or directors for the administration of any public or private educational institution. For the purpose of this section a self-opening or switch-blade knife is defined as a knife containing a blade or blades which open automatically by the release of a spring or a similar contrivance, and the above phrase "weapon of like kind" includes razors and razor blades (except solely for personal shaving) and any sharp pointed or edged instrument except unaltered nail files and clips and tools used solely for preparation of food, instruction and maintenance. This section shall not apply to the following persons: Officers and enlisted personnel of the armed forces of the United States when in discharge of their official duties as such and acting under orders requiring them to carry arms or weapons, civil officers of the United States while in the discharge of their official duties, officers and soldiers of the militia and the national guard when called into actual service, officers of the State, or of any county, city, or town, charged with the execution of the laws of the State, when acting in the discharge of their official duties, any pupils who are members of the Reserve Officer Training Corps and who are required to carry arms or weapons in the discharge of their official class duties, and any private police employed by the administration or board of trustees of any public or private institution of higher education when acting in the discharge of their duties.

Any person violating the provisions of this section shall be guilty of a misdemeanor and upon conviction shall be punished in the discretion of the court by fine or imprisonment or by both such fine and imprisonment, not to exceed five hundred dollars ($500.00) fine or six months imprisonment. (1971, c. 241, ss. 1, 2; c. 1224.)

Editor's Note. — The 1971 amendment added the language beginning "and any private police" at the end of the last sentence in the first paragraph.

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§ 14-272. Disturbing picnics, entertainments and other meetings. —If any person shall willfully interrupt or disturb any picnic, excursion party, school entertainment, political meeting, or any meeting or other organization whatsoever lawfully and peaceably held, either at, within or without the place where such picnic, excursion party, school entertainment, political meeting or other meeting or organization is held, he shall be guilty of a misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both. (1897, c. 213; Rev., s. 3704; C. S., s. 4413; 1969, c. 1224, s. 3.)

Editor's Note. — The 1969 amendment, effective Oct. 1, 1969, rewrote the provisions relating to punishment.

§ 14-273. Disturbing schools and scientific and temperance meetings; injuring property of schools and temperance societies. — If any person shall wilfully interrupt or disturb any public or private school or temperance society or organization or any meeting lawfully and peacefully held for the purpose of literary and scientific improvement, or for the discussion of temperance or question of moral reform, either within or without the place where such meeting or school is held, or injure any school building, or deface any school furniture, apparatus or other school property, or property of any temperance

society or organization, he shall be guilty of a misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both. (Code, s. 2592; 1885, c. 140; 1901, c. 4, s. 28; Rev., s. 3838; C. S., s. 4414; 1959, c. 555, s. 2; 1969, c. 1224, s. 3.)

Editor's Note.— The 1969 amendment, effective Oct. 1, 1969, rewrote the provisions relating to punishment.

§ 14-274. Disturbing students at schools for women.—It shall be unlawful for any male person to willfully disturb, annoy or harass the students of any boarding school or college for women situated anywhere in North Carolina by rude conduct or by persistent unnecessary presence on or near the property of the school or college; or by the willful addressing or communicating orally or otherwise with said students while on school property, or while elsewhere when in charge of a teacher, officer or student of said school. The violation of this section shall be deemed a misdemeanor punishable by a fine of not less than five dollars ($5) nor more than fifty dollars ($50), or by imprisonment not to exceed thirty days. (1925, c. 189, s. 1.)

§ **14-275. Disturbing religious congregations.**—If any person shall be intoxicated or shall be guilty of any rude and disorderly conduct at any place where people are accustomed to meet for divine worship, and while the people are there assembled for such worship, whether such worship should have begun or not, he shall be guilty of a misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both. (1901, c. 738; Rev., s. 3706; C. S., s. 4415; 1969, c. 1224, s. 3.)

Editor's Note. — The 1969 amendment, effective Oct. 1, 1969, rewrote the provisions relating to punishment.

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SUBCHAPTER X. OFFENSES AGAINST THE PUBLIC SAFETY.

ARTICLE 36.

Offenses against the Public Safety.

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§ **14-286. Giving false fire alarms; molesting fire alarm system.**— It shall be unlawful for any person or persons to wantonly and willfully give or cause to be given, or to advise, counsel, or aid and abet anyone in giving a false alarm of fire, or to break the glass key protector, or to pull the slide, arm, or lever of any station or signal box of any fire alarm system, except in case of fire, or in any way to willfully interfere with, damage, deface, molest, or injure any part or portion of any fire alarm system. Any person violating any of the provisions of this section shall be guilty of a misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both. (1921, c. 46; C. S., s. 4426(a); 1961, c. 594; 1969, c. 1224, s. 5.)

Editor's Note.— The 1969 amendment, effective Oct. 1, 1969, rewrote the provisions relating to punishment in the last sentence.

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ARTICLE 36A.

Riots and Civil Disorders.

§ **14-288.1. Definitions.**—Unless the context clearly requires otherwise, the definitions in this section apply throughout this article:

(1) "Chairman of the board of county commissioners": The chairman of the board of county commissioners or, in case of his absence or disability, the person authorized to act in his stead. Unless the governing body of the county has specified who is to act in lieu of the chairman with respect to a particular power or duty set out in this article, the term "chairman of the board of county commissioners" shall apply to the person generally authorized to act in lieu of the chairman.

(2) "Dangerous weapon or substance": Any deadly weapon, ammunition, explosive, incendiary device, or any instrument or substance designed for a use that carries a threat of serious bodily injury or destruction of property; or any instrument or substance that is capable of being used to inflict serious bodily injury, when the circumstances indicate a probability that such instrument or substance will be so used; or any part or ingredient in any instrument or substance included above, when the circumstances indicate a probability that such part or ingredient will be so used.

(3) "Declared state of emergency": A state of emergency found and proclaimed by the Governor under the authority of § 14-288.15, by any mayor or other municipal official or officials under the authority of § 14-288.12, by any chairman of the board of commissioners of any county or other county official or officials under the authority of § 14-288.13, by any chairman of the board of county commissioners acting under the authority of § 14-288.14, by any chief executive official or acting chief executive official of any county or municipality acting under the authority of any other applicable statute or provision of the common law to preserve the public peace in a state of emergency, or by any executive official or military commanding officer of the United States or the State of North Carolina who becomes primarily responsible under applicable law for the preservation of the public peace within any part of North Carolina.

(4) "Disorderly conduct": As defined in § 14-288.4 (a).

(5) "Law-enforcement officer": Any officer of the State of North Carolina or any of its political subdivisions authorized to make arrests; any other person authorized under the laws of North Carolina to make arrests and either acting within his territorial jurisdiction or in an area in which he has been lawfully called to duty by the Governor or any mayor or chairman of the board of county commissioners; any member of the armed forces of the United States, the North Carolina national guard, or the State defense militia called to duty in a state of emergency in North Carolina and made responsible for enforcing the laws of North Carolina or preserving the public peace; or any officer of the United States authorized to make arrests without warrant and assigned to duties that include preserving the public peace in North Carolina.

(6) "Mayor": The mayor or other chief executive official of a municipality or, in case of his absence or disability, the person authorized to act in his stead. Unless the governing body of the municipality has specified who is to act in lieu of the mayor with respect to a particular power or duty set out in this article, the word "mayor" shall apply to the person generally authorized to act in lieu of the mayor.

(7) "Municipality": Any active incorporated city or town, but not including any sanitary district or other municipal corporation that is not a city or town. An "active" municipality is one which has conducted the most recent election required by its charter or the general law, whichever is applicable, and which has the authority to enact general police-power ordinances.

(8) "Public disturbance": Any annoying, disturbing, or alarming act or condition exceeding the bounds of social toleration normal for the time and place in question which occurs in a public place or which occurs in, affects persons in, or is likely to affect persons in a place to which the public or a substantial group has access. The places covered by this definition shall include, but not be limited to, highways, transport facilities, schools, prisons, apartment houses, places of business or amusement, or any neighborhood.

(9) "Riot": As defined in § 14-288.2 (a).

(10) "State of emergency": The condition that exists whenever, during times of public crisis, disaster, rioting, catastrophe, or similar public emergency, public safety authorities are unable to maintain public order or afford adequate protection for lives or property, or whenever the occurrence of any such condition is imminent. (1969, c. 869, s. 1.)

§ 14-288.2. Riot; inciting to riot; punishments.—(a) A riot is a public disturbance involving an assemblage of three or more persons which by disorderly and violent conduct, or the imminent threat of disorderly and violent conduct, results in injury or damage to persons or property or creates a clear and present danger of injury or damage to persons or property.

(b) Any person who wilfully engages in a riot is guilty of a misdemeanor punishable as provided in § 14-3 (a).

(c) Any person who wilfully engages in a riot is guilty of a felony punishable by a fine not to exceed ten thousand dollars ($10,000.00) or imprisonment for not more than five years, or both such fine and imprisonment, if:

(1) In the course and as a result of the riot there is property damage in excess of fifteen hundred dollars ($1,500.00) or serious bodily injury; or

(2) Such participant in the riot has in his possession any dangerous weapon or substance.

(d) Any person who wilfully incites or urges another to engage in a riot, so that as a result of such inciting or urging a riot occurs or a clear and present danger of a riot is created, is guilty of a misdemeanor punishable as provided in § 14-3 (a).

(e) Any person who wilfully incites or urges another to engage in a riot, and such inciting or urging is a contributing cause of a riot in which there is property damage in excess of fifteen hundred dollars ($1,500.00) or serious bodily injury, is guilty of a felony punishable as provided in § 14-2. (1969, c. 869, s. 1.)

§ 14-288.3. Provisions of article intended to supplement common law and other statutes.—The provisions of this article are intended to supersede and extend the coverage of the common-law crimes of riot and inciting to riot. To the extent that such common-law offenses may embrace situations not covered under the provisions of this article, however, criminal prosecutions may be brought for such crimes under the common law. All other provisions of this article are intended to be supplementary and additional to the common law and other statutes of this State and, except as specifically indicated, shall not be construed to abrogate, abolish, or supplant other provisions of law. In particular, this article shall not be deemed to abrogate, abolish, or supplant such common-law offenses as unlawful assembly, rout, conspiracy to commit riot or other criminal offenses, false imprisonment, and going about armed to the terror of the populace and other comparable public-nuisance offenses. (1969, c. 869, s. 1.)

§ 14-288.4. Disorderly conduct. — (a) Disorderly conduct is a public disturbance intentionally caused by any person who:

(1) Engages in fighting or other violent conduct or in conduct creating the threat of imminent fighting or other violence; or

(2) Makes or uses any utterance, gesture, display or abusive language which is intended and plainly likely to provoke violent retaliation and thereby cause a breach of the peace; or

(3) Takes possession of, exercises control over, or seizes any building or facility of any public or private educational institution without the specific authority of the chief administrative officer of the institution, or his authorized representative; or

(4) Refuses to vacate any building or facility of any public or private educational institution in obedience to:

a. An order of the chief administrative officer of the institution, or his authorized representative; or

b. An order given by any fireman or public health officer acting within the scope of his authority; or

c. If a state of emergency is occurring or is imminent within the institution, an order given by any law-enforcement officer acting within the scope of his authority; or

(5) Shall, after being forbidden to do so by the chief administrative officer, or his authorized representative, of any public or private educational institution:

a. Engage in any sitting, kneeling, lying down, or inclining so as to obstruct the ingress or egress of any person entitled to the use of any building or facility of the institution in its normal and intended use; or

b. Congregate, assemble, form groups or formations (whether organized or not), block, or in any manner otherwise interfere with the operation or functioning of any building or facility of the institution so as to interfere with the customary or normal use of the building or facility; [or]

(6) Disrupts, disturbs or interferes with the teaching of students at any public or private educational institution or engages in conduct which disturbs the peace, order or discipline at any public or private educational institution or on the grounds adjacent thereto.

As used in this section the term "building or facility" includes the surrounding grounds and premises of any building or facility used in connection with the operation or functioning of such building or facility.

(b) Any person who willfully engages in disorderly conduct is guilty of a misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00) or imprisonment for not more than six months. (1969, c. 869, s. 1; 1971, c. 668, s. 1; 1973, c. 1347.)

Editor's Note. — The 1971 amendment rewrote subdivisions (1) and (2), deleted former subdivision (3), which read "Wilfully or wantonly creates a hazardous or physically offensive condition; or," renumbered former subdivisions (4), (5) and (6) as (3), (4) and (5) and substituted "or seizes" for "seizes, or occupies" near the beginning of present subdivision (3).

Section 2, c. 668, Session Laws 1971, provides: "Every word, clause, sentence, paragraph, section, or other part of this act shall be interpreted in such manner as to be as expansive as the Constitution of the United States and the Constitution of North Carolina permit."

Section 3, c. 668, Session Laws 1971, contains a severability clause.

§ 14-288.5. Failure to disperse when commanded, misdemeanor; prima facie evidence.—(a) Any law-enforcement officer or public official responsible for keeping the peace may issue a command to disperse in accordance with this section if he reasonably believes that a riot, or disorderly conduct by an assemblage of three or more persons, is occurring. The command to disperse shall be given in a manner reasonably calculated to be communicated to the assemblage.

(b) Any person who fails to comply with a lawful command to disperse is guilty of a misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00) or imprisonment for not more than six months.

(c) If any person remains at the scene of any riot, or disorderly conduct by an assemblage of three or more persons, following a command to disperse and after a reasonable time for dispersal has elapsed, it is prima facie evidence that the person so remaining is wilfully engaging in the riot or disorderly conduct, as the case may be. (1969, c. 869, s. 1.)

§ **14-288.6. Looting; trespass during emergency.** — (a) Any person who enters upon the premises of another without legal justification when the usual security of property is not effective due to the occurrence or aftermath of riot, insurrection, invasion, storm, fire, explosion, flood, collapse, or other disaster or calamity is guilty of the misdemeanor of trespass during emergency and is punishable as provided in § 14-3 (a).

(b) Any person who commits the crime of trespass during emergency and, without legal justification, obtains or exerts control over, damages, ransacks, or destroys the property of another is guilty of the felony of looting and is punishable by a fine not to exceed ten thousand dollars ($10,000.00) or imprisonment for not more than five years, or both such fine and imprisonment. (1969, c. 869, s. 1.)

§ **14-288.7. Transporting dangerous weapon or substance during emergency; possessing off premises; exceptions.**—(a) Except as otherwise provided in this section, it is unlawful for any person to transport or possess off his own premises any dangerous weapon or substance in any area:

(1) In which a declared state of emergency exists; or
(2) Within the immediate vicinity of which a riot is occurring.

(b) This section does not apply to persons exempted from the provisions of § 14-269 with respect to any activities lawfully engaged in while carrying out their duties.

(c) Any person who violates any provision of this section is guilty of a misdemeanor punishable as provided in § 14-3 (a). (1969, c. 869, s. 1.)

§ **14-288.8. Manufacture, assembly, possession, storage, transportation, sale, purchase, delivery, or acquisition of weapon of mass death and destruction; exceptions.**—(a) Except as otherwise provided in this section, it is unlawful for any person to manufacture, assemble, possess, store, transport, sell, offer to sell, purchase, offer to purchase, deliver or give to another, or acquire any weapon of mass death and destruction.

(b) This section does not apply to:

(1) Persons exempted from the provisions of § 14-269 with respect to any activities lawfully engaged in while carrying out their duties.
(2) Importers, manufacturers, dealers, and collectors of firearms, ammunition, or destructive devices validly licensed under the laws of the United States or the State of North Carolina, while lawfully engaged in activities authorized under their licenses.
(3) Persons under contract with the United States, the State of North Carolina, or any agency of either government, with respect to any activities lawfully engaged in under their contracts.
(4) Inventors, designers, ordnance consultants and researchers, chemists, physicists, and other persons lawfully engaged in pursuits designed to enlarge knowledge or to facilitate the creation, development, or manufacture of weapons of mass death and destruction intended for use in a manner consistent with the laws of the United States and the State of North Carolina.

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(c) The term "weapon of mass death and destruction" includes:

(1) Any explosive, incendiary, or poison gas:

a. Bomb; or
b. Grenade; or
c. Rocket having a propellant charge of more than four ounces; or
d. Missile having an explosive or incendiary charge of more than one-quarter ounce; or
e. Mine; or
f. Device similar to any of the devices described above; or

(2) Any type of weapon (other than a shotgun or a shotgun shell of a type particularly suitable for sporting purposes) which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half inch in diameter; or

(3) Any machine gun, sawed-off shotgun, or other weapon designed for rapid fire or inflicting widely dispersed injury or damage (other than a weapon of a type particularly suitable for sporting purposes); or

(4) Any combination of parts either designed or intended for use in converting any device into any weapon described above and from which a weapon of mass death and destruction may readily be assembled.

The term "weapon of mass death and destruction" does not include any device which is neither designed nor redesigned for use as a weapon; any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line-throwing, safety, or similar device; surplus ordnance sold, loaned, or given by the Secretary of the Army pursuant to the provisions of section 4684(2), 4685, or 4686 of Title 10 of the United States Code; or any other device which the Secretary of the Treasury finds is not likely to be used as a weapon, is an antique, or is a rifle which the owner intends to use solely for sporting purposes, in accordance with chapter 44 of Title 18 of the United States Code.

(d) Any person who violates any provision of this section is guilty of a misdemeanor punishable as provided in § 14-3 (a). (1969, c. 869, s. 1.)

§ **14-288.9. Assault on emergency personnel; punishments.** — (a) An assault upon emergency personnel is an assault upon any person coming within the definition of "emergency personnel" which is committed in an area:

(1) In which a declared state of emergency exists; or
(2) Within the immediate vicinity of which a riot is occurring or is imminent.

(b) The term "emergency personnel" includes law-enforcement officers, firemen, ambulance attendants, utility workers, doctors, nurses, and other persons lawfully engaged in providing essential services during the emergency.

(c) Any person who commits an assault upon emergency personnel is guilty of a misdemeanor punishable as provided in § 14-3 (a). Any person who commits an assault upon emergency personnel with or through the use of any dangerous weapon or substance is guilty of a felony punishable by a fine not to exceed ten thousand dollars ($10,000.00) or imprisonment for not more than five years, or both such fine and imprisonment. (1969, c. 869, s. 1.)

§ **14-288.10. Frisk of persons during violent disorders; frisk of curfew violators.**—(a) Any law-enforcement officer may frisk any person in order to discover any dangerous weapon or substance when he has reasonable grounds to believe that the person is or may become unlawfully involved in an existing riot and when the person is close enough to such riot that he could become immediately involved in the riot. The officer may also at that time inspect for the same purpose the contents of any personal belongings that the person has in his possession.

(b) Any law-enforcement officer may frisk any person he finds violating the provisions of a curfew proclaimed under the authority of §§ 14-288.12, 14-288.13, 14-288.14, or 14-288.15 or any other applicable statutes or provisions of the common law in order to discover whether the person possesses any dangerous weapon or substance. The officer may also at that time inspect for the same purpose the contents of any personal belongings that the person has in his possession. (1969, c. 869, s. 1.)

§ 14-288.11. Warrants to inspect vehicles in riot areas or approaching municipalities during emergencies. — (a) Notwithstanding the provisions of article 4 of chapter 15, any law-enforcement officer may, under the conditions specified in this section, obtain a warrant authorizing inspection of vehicles under the conditions and for the purpose specified in subsection (b).

(b) The inspection shall be for the purpose of discovering any dangerous weapon or substance likely to be used by one who is or may become unlawfully involved in a riot. The warrant may be sought to inspect:

(1) All vehicles entering or approaching a municipality in which a state of emergency exists; or

(2) All vehicles which might reasonably be regarded as being within or approaching the immediate vicinity of an existing riot.

(c) The warrant may be issued by any judge or justice of the General Court of Justice.

(d) The issuing official shall issue the warrant only when he has determined that the one seeking the warrant has been specifically authorized to do so by the head of the law-enforcement agency of which the affiant is a member, and:

(1) If the warrant is being sought for the inspection of vehicles entering or approaching a municipality, that a state of emergency exists within the municipality; or

(2) If the warrant being sought is for the inspection of vehicles within or approaching the immediate vicinity of a riot, that a riot is occurring within that area.

Facts indicating the basis of these determinations must be stated in an affidavit and signed by the affiant under oath or affirmation.

(e) The warrant must be signed by the issuing official and must bear the hour and date of its issuance.

(f) The warrant must indicate whether it is for the inspection of vehicles entering or approaching a municipality or whether it is for the inspection of vehicles within or approaching the immediate vicinity of a riot. In either case, it must also specify with reasonable precision the area within which it may be exercised.

(g) The warrant shall become invalid twenty-four hours following its issuance and must bear a notation to that effect.

(h) Warrants authorized under this section shall not be regarded as search warrants for the purposes of application of article 4 of chapter 15.

(i) Nothing in this section is intended to prevent warrantless frisks, searches, and inspections to the extent that they may be constitutional and consistent with common law and governing statutes. (1969, c. 869, s. 1.)

§ 14-288.12. Powers of municipalities to enact ordinances to deal with states of emergency.—(a) The governing body of any municipality may enact ordinances designed to permit the imposition of prohibitions and restrictions during a state of emergency.

(b) The ordinances authorized by this section may permit prohibitions and restrictions:

(1) Of movements of people in public places;
(2) Of the operation of offices, business establishments, and other places to or from which people may travel or at which they may congregate;
(3) Upon the possession, transportation, sale, purchase, and consumption of intoxicating liquors;
(4) Upon the possession, transportation, sale, purchase, storage, and use of dangerous weapons and substances, and gasoline; and
(5) Upon other activities or conditions the control of which may be reasonably necessary to maintain order and protect lives or property during the state of emergency.

The ordinances may delegate to the mayor of the municipality the authority to determine and proclaim the existence of a state of emergency, and to impose those authorized prohibitions and restrictions appropriate at a particular time.

(c) This section is intended to supplement and confirm the powers conferred by §§ 160-52, 160-200 (7), and all other general and local laws authorizing municipalities to enact ordinances for the protection of the public health and safety in times of riot or other grave civil disturbance or emergency.

(d) Any ordinance of a type authorized by this section promulgated prior to June 19, 1969 shall, if otherwise valid, continue in full force and effect without reenactment.

(e) Any person who violates any provision of an ordinance or a proclamation enacted or proclaimed under the authority of this section is guilty of a misdemeanor punishable as provided in § 14-4. (1969, c. 869, s. 1.)

§ 14-288.13. Powers of counties to enact ordinances to deal with states of emergency.—(a) The governing body of any county may enact ordinances designed to permit the imposition of prohibitions and restrictions during a state of emergency.

(b) The ordinances authorized by this section may permit the same prohibitions and restrictions to be imposed as enumerated in § 14-288.12 (b). The ordinances may delegate to the chairman of the board of county commissioners the authority to determine and proclaim the existence of a state of emergency, and to impose those authorized prohibitions and restrictions appropriate at a particular time.

(c) No ordinance enacted by a county under the authority of this section shall apply within the corporate limits of any municipality, or within any area of the county over which the municipality has jurisdiction to enact general police-power ordinances, unless the municipality by resolution consents to its application.

(d) Any person who violates any provision of an ordinance or a proclamation enacted or proclaimed under the authority of this section is guilty of a misdemeanor punishable as provided in § 14-4. (1969, c. 869, s. 1.)

§ 14-288.14. Power of chairman of board of county commissioners to extend emergency restrictions imposed in municipality.—(a) The chairman of the board of commissioners of any county who has been requested to do so by a mayor may by proclamation extend the effect of any one or more of the prohibitions and restrictions imposed in that mayor's municipality pursuant to the authority granted in § 14-288.12. The chairman may extend such prohibitions and restrictions to any area within his county in which he determines it to be necessary to assist in controlling the state of emergency within the municipality. No prohibition or restriction extended by proclamation by the chairman under the authority of this section shall apply within the limits of any other municipality, or within any area of the county over which the municipality has jurisdiction to enact general police-power ordinances, unless that other municipality by resolution consents to its application.

(b) Whenever any chairman of the board of county commissioners extends the effect of municipal prohibitions and restrictions under the authority of this

section to any area of the county, it shall be deemed that a state of emergency has been validly found and declared with respect to such area of the county.

(c) Any chairman of a board of county commissioners extending prohibitions and restrictions under the authority of this section must take reasonable steps to give notice of its terms to those likely to be affected. The chairman of the board of commissioners shall proclaim the termination of any prohibitions and restrictions extended under the authority of this section upon:

(1) His determination that they are no longer necessary; or

(2) The determination of the board of county commissioners that they are no longer necessary; or

(3) The termination of the prohibitions and restrictions within the municipality.

(d) The powers authorized under this section may be exercised whether or not the county has enacted ordinances under the authority of § 14-288.13. Exercise of this authority shall not preclude the imposition of prohibitions and restrictions under any ordinances enacted by the county under the authority of § 14-288.13.

(e) Any person who violates any provision of any prohibition or restriction extended by proclamation under the authority of this section is guilty of a misdemeanor punishable by a fine not to exceed fifty dollars ($50.00) or imprisonment for not more than thirty days. (1969, c. 869, s. 1.)

§ 14-288.15. Authority of Governor to exercise control in emergencies.—(a) When the Governor determines that a state of emergency exists in any part of North Carolina, he may exercise the powers conferred by this section if he further finds that local control of the emergency is insufficient to assure adequate protection for lives and property.

(b) Local control shall be deemed insufficient only if:

(1) Needed control cannot be imposed locally because local authorities responsible for preservation of the public peace have not enacted appropriate ordinances or issued appropriate proclamations as authorized by §§ 14-288.12, 14-288.13, or 14-288.14; or

(2) Local authorities have not taken implementing steps under such ordinances or proclamations, if enacted or proclaimed, for effectual control of the emergency that has arisen; or

(3) The area in which the state of emergency exists has spread across local jurisdictional boundaries and the legal control measures of the jurisdictions are conflicting or uncoordinated to the extent that efforts to protect life and property are, or unquestionably will be, severely hampered; or

(4) The scale of the emergency is so great that it exceeds the capability of local authorities to cope with it.

(c) The Governor when acting under the authority of this section may:

(1) By proclamation impose prohibitions and restrictions in all areas affected by the state of emergency; and

(2) Give to all participating State and local agencies and officers such directions as may be necessary to assure coordination among them. These directions may include the designation of the officer or agency responsible for directing and controlling the participation of all public agencies and officers in the emergency. The Governor may make this designation in any manner which, in his discretion, seems most likely to be effective. Any law-enforcement officer participating in the control of a state of emergency in which the Governor is exercising control under this section shall have the same power and authority as a sheriff throughout the territory to which he is assigned.

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(d) The Governor in his discretion, as appropriate to deal with the emergency then occurring or likely to occur, may impose any one or more or all of the types of prohibitions and restrictions enumerated in § 14-288.12 (b), and may amend or rescind any prohibitions and restrictions imposed by local authorities.

(e) Any person who violates any provision of a proclamation of the Governor issued under the authority of this section is guilty of a misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00) or imprisonment for not more than six months. (1969, c. 869, s. 1.)

§ **14-288.16. Effective time, publication, amendment, and recision of proclamations.**—(a) This section applies to proclamations issued under the authority of §§ 14-288.12, 14-288.13, 14-288.14, and 14-288.15, and any other applicable statutes and provisions of the common law.

(b) All prohibitions and restrictions imposed by proclamation shall take effect immediately upon publication of the proclamation in the area affected unless the proclamation sets a later time. For the purpose of requiring compliance, publication may consist of reports of the substance of the prohibitions and restrictions in the mass communications media serving the affected area or other effective methods of disseminating the necessary information quickly. As soon as practicable, however, appropriate distribution of the full text of any proclamation shall be made. This subsection shall not be governed by the provisions of § 1-597.

(c) Prohibitions and restrictions may be extended as to time or area, amended, or rescinded by proclamation. Prohibitions and restrictions imposed by proclamation under the authority of §§ 14-288.12, 14-288.13, and 14-288.14 shall expire five days after their last imposition unless sooner terminated under § 14-288.14 (c) (3), by proclamation, or by the governing body of the county or municipality in question. Prohibitions and restrictions imposed by proclamation of the Governor shall expire five days after their last imposition unless sooner terminated by proclamation of the Governor. (1969, c. 869, s. 1.)

§ **14-288.17. Municipal and county ordinances may be made immediately effective if state of emergency exists or is imminent.**—(a) Nothwithstanding any other provision of law, whether general or special, relating to the promulgation or publication of ordinances by any municipality or county, this section shall control with respect to any ordinances authorized by §§ 14-288.11 and 14-288.12.

(b) Upon proclamation by the mayor or chairman of the board of county commissioners that a state of emergency exists within the municipality or the county, or is imminent, any ordinance enacted under the authority of this article shall take effect immediately unless the ordinance sets a later time. If the effect of this section is to cause an ordinance to go into effect sooner than it otherwise could under the law applicable to the municipality or county, the mayor or chairman of the board of county commissioners, as the case may be, shall take steps to cause reports of the substance of any such ordinance to be disseminated in a fashion that such substance will likely be communicated to the public in general, or to those who may be particularly affected by the ordinance if it does not affect the public generally. As soon as practicable thereafter, appropriate distribution or publication of the full text of any such ordinance shall be made. (1969, c. 869, s. 1.)

§ **14-288.18. Injunction to cope with emergencies at public and private educational institutions.**—(a) The chief administrative officer, or his authorized representative, of any public or private educational institution may apply to any superior court judge for injunctive relief if a state of emergency exists or is imminent within his institution. For the purposes of this section, the superintendent of any city or county administrative school unit shall be deemed the chief administrative officer of any public elementary or secondary school within his unit.

(b) Upon a finding by a superior court judge to whom application has been made under the provisions of this section, that a state of emergency exists or is imminent within a public or private educational institution by reason of riot, disorderly conduct by three or more persons, or the imminent threat of riot, the judge may issue an injunction containing provisions appropriate to cope with the emergency then occurring or threatening. The injunction may be addressed to named persons or named or described groups of persons as to whom there is satisfactory cause for believing that they are contributing to the existing or imminent state of emergency, and ordering such persons or groups of persons to take or refrain or desist from taking such various actions as the judge finds it appropriate to include in his order. (1969, c. 869, s. 1.)

§ **14-288.19. Governor's power to order evacuation of public building.**—(a) When it is determined by the Governor that a great public crisis, disaster, riot, catastrophe, or any other similar public emergency exists, or the occurrence of any such condition is imminent, and, in the Governor's opinion it is necessary to evacuate any building owned or controlled by any department, agency, institution, school, college, board, division, commission or subdivision of the State in order to maintain public order and safety or to afford adequate protection for lives or property, the Governor is hereby authorized to issue an order of evacuation directing all persons within the building to leave the building and its premises forthwith. The order shall be delivered to any law-enforcement officer or officer of the national guard, and such officer shall, by a suitable public address system, read the order to the occupants of the building and demand that the occupants forthwith evacuate said building within the time specified in the Governor's order.

(b) Any person who wilfully refuses to leave the building as directed in the Governor's order shall be guilty of a misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00) or imprisonment for not more than six months, or both, in the discretion of the court. (1969, c. 1129.)

SUBCHAPTER XI. GENERAL POLICE REGULATIONS.

ARTICLE 52.

Miscellaneous Police Regulations.

§ **14-381. Desecration of State and United States flag.** — It shall be unlawful for any person wilfully and knowingly to cast contempt upon any flag of the United States or upon any flag of North Carolina by public acts of physical contact including, but not limited to, mutilation, defiling, defacing or trampling. Any person violating this section shall be deemed guilty of a misdemeanor and shall be punished by a fine not exceeding five hundred dollars ($500.00) or imprisonment for not more than six months or both, in the discretion of the court.

The flag of the United States, as used in this section, shall be the same as defined in 4 U.S.C.A. 1 and 4 U.S.C.A. 2. The flag of North Carolina, as used in this section, shall be the same as defined in G.S. 144-1. (1917, c. 271; C. S., s. 4500; 1971, c. 295.)

Editor's Note.—The 1971 amendment rewrote this section.

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§ 14-398. Theft or destruction of property of public libraries, museums, etc.—Any person who shall steal or unlawfully take or detain, or wilfully or maliciously or wantonly write upon, cut, tear, deface, disfigure, soil, obliterate, break or destroy, or who shall sell or buy or receive, knowing the same to have been stolen, any book, document, newspaper, periodical, map, chart, picture, portrait, engraving, statue, coin, medal, apparatus, specimen, or other work of literature or object of art or curiosity deposited in a public library, gallery, museum, collection, fair or exhibition, or in any department or office of State or local government, or in a library, gallery, museum, collection, or exhibition, belonging to any incorporated college or university, or any incorporated institution devoted to educational, scientific, literary, artistic, historical or charitable purposes, shall, if the value of the property stolen, detained, sold, bought or received knowing same to have been stolen, or if the damage done by writing upon, cutting, tearing, defacing, disfiguring, soiling, obliterating, breaking or destroying any such property, shall not exceed fifty dollars ($50.00), be guilty of a misdemeanor and upon conviction shall be fined or imprisoned in the discretion of the court. If the value of the property stolen, detained, sold or received knowing same to have been stolen, or the amount of damage done in any of the ways or manners hereinabove set out, shall exceed the sum of fifty dollars ($50.00), the person committing same shall be guilty of a felony, and shall upon conviction be punished in accordance with the laws applicable thereto. (1935, c. 300; 1943, c. 543.)

B. Other Provisions

Chapter 20. Motor Vehicles

ARTICLE 3.

Motor Vehicle Act of 1937.

Part 8. Anti-Theft and Enforcement Provisions.

. . . .

§ 20-114.1. Willful failure to obey traffic officer; firemen as traffic officers.—(a) No person shall willfully fail or refuse to comply with any lawful order or direction of any law-enforcement officer invested by law with authority to direct, control or regulate traffic, which order or direction related to the control of traffic.

(b) In addition to other law-enforcement officers, uniformed regular and volunteer firemen may direct traffic and enforce traffic laws and ordinances at the scene of fires in connection with their duties as firemen, and uniformed regular and volunteer members of a rescue squad may direct and enforce traffic laws and ordinances at the scene of accidents in connection with their duties. Except as herein provided, firemen and members of rescue squads shall not be considered law-enforcement officers. (1961, c. 879; 1969, c. 59.)

Editor's Note.—The 1969 amendment rewrote this section, which formerly related only to firemen.

—Violation of this section is a misdemeanor punishable by a fine of not more than $100 or by imprisonment for not more than 60 days, or both, under G.S. 20-176(b).

Part 11. Pedestrians' Rights and Duties.

. . . .

§ 20-174.1. Sitting or lying upon highways or streets prohibited.—(a) No person shall wilfully stand, sit, or lie upon the highway or street in such a manner as to impede the regular flow of traffic.

(b) Any person convicted of violating this section shall be punished by a fine not exceeding five hundred dollars ($500.00) or by imprisonment not exceeding six months, or both, in the discretion of the court. (1965, c. 137; 1969, c. 1012.)

Editor's Note. — The 1969 amendment rewrote subsection (b)

. . . .

Chapter 116. Higher Education

Article 25.

Disruption on Campuses of State-Owned Institutions of Higher Education.

§ 116-212. Campus of state-supported institution of higher education subject to curfew.—The chancellor or president of any state-supported institution of higher learning may designate periods of time during which the campuses of such institutions and designated buildings and facilities connected therewith are off-limits and subject to a curfew as to all persons who are not faculty members, staff personnel, currently enrolled students of that institution, local law-enforcement officers, members of the national guard on active duty, members of the General Assembly, the Governor of North Carolina and/or his designated agents, persons authorized by the chief administrative officer of the institution or his designated agent, and any person who satisfactorily identifies himself as a reporter for any newspaper, magazine, radio or television station. Any person not herein authorized who comes onto or remains on said campus in violation of this section shall be punished as set out in § 116-213. (1969, c. 860, s. 1.)

§ 116-213. Violation of curfew a misdemeanor; punishment.—(a) Any person who during such period of curfew utilizes sound-amplifying equipment of any kind or nature upon the premises subject to such curfew in an educational, administrative building, or in any facility owned or controlled by the State or a State institution of higher learning, or upon the campus or grounds of any such institution, without the permission of the administrative head of the institution or his designated agent, shall be guilty of a misdemeanor and punished as hereinafter set forth. For the purposes of this section the term "sound-amplifying equipment" shall mean any device, machine, or mechanical contrivance which is capable of amplifying sound and capable of delivering an electrical input of one or more watts to the loudspeaker, but this section shall not include radios and televisions.

(b) Any person convicted of violating any provision of § 116-212 or 116-213, or who shall enter a plea of guilty to such violation or a plea of nolo contendere, shall be fined not exceeding five hundred dollars ($500.00) or imprisoned not exceeding six months, or both such fine and imprisonment, in the discretion of the court. (1969, c. 860, ss. 2, 3.)

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Chapter 136. Roads and Highways

ARTICLE 7.

Miscellaneous Provisions.

. . . .

§ 136-91. Placing glass, etc., or injurious obstructions in road.—(a) No person shall throw, place, or deposit any glass or other sharp or cutting substance or any injurious obstruction in or upon any highway or public vehicular area.

(b) As used in this section:

(1) "Highway" shall be defined as it is in Article 3 of Chapter 20; and

(2) "Public vehicular area" shall be defined as any driveway, roadway, parking lot, or other public or private area open to the public, or a segment of the public, for vehicular traffic or parking.

(c) Any person violating the provisions of this section shall be guilty of a misdemeanor punishable by a fine not to exceed two hundred dollars ($200.00) or imprisonment for not more than 30 days. (1917, c. 140, ss. 18, 21; C. S., ss. 2599, 2619; 1971, c. 2[illegible].)

Editor's Note.—The 1971 amendment, effective from and after Oct. 1, 1971, designated the first sentence as subsection (a), rewrote the second sentence and designated it as subsection (c), and added subsection (b). In subsection (a) the amendment substituted "highway or public vehicular area" for "or the public highways of this State."

Chapter 165. Veterans

ARTICLE 4.

Scholarships for Children of War Veterans.

. . . .

§ 165-22.1(a). Administration of Scholarship Program.

Editor's Note.—This section permits the Department of Veterans Affairs to suspend or revoke scholarships if Department finds that recipient "wilfully engages in riots, unlawful demonstrations, the seizure of educational buildings, or otherwise engages in disorderly conduct, breaches of the peace or unlawful assemblies." See p. 83 for full text of statute.

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V. Tuition and Fees

Chapter 116. Higher Education

ARTICLE 14.

General Provisions as to Tuition and Fees in Certain State Institutions.

§ 116-143. State-supported institutions of higher education required to charge tuition and fees.—The Board of Governors of the University of North Carolina shall fix the tuition and fees, not inconsistent with actions of the General Assembly, at the institutions enumerated in G.S. 116-4 in such amount or amounts as it may deem best, taking into consideration the nature of each institution and program of study and the cost of equipment and maintenance; and each institution shall charge and collect from each student, at the beginning of each semester or quarter, tuition, fees, and an amount sufficient to pay other expenses for the term.

In the event that said students are unable to pay the cost of tuition and required academic fees as the same may become due, in cash, the said several boards of trustees are hereby authorized and empowered, in their discretion, to accept the obligation of the student or students together with such collateral or security as they may deem necessary and proper, it being the purpose of this Article that all students in State institutions of higher learning shall be required to pay tuition, and that free tuition is hereby abolished.

Inasmuch as the giving of tuition and fee waivers, or especially reduced rates, represent in effect a variety of scholarship awards, the said practice is hereby prohibited except when expressly authorized by statute; and, furthermore, it is hereby directed and required that all budgeted funds expended for scholarships of any type must be clearly identified in budget reports.

Where an individual is participating in an interstate regional training program approved by the Southern Regional Education Board, or in the Appalachian Regional Commission program, or in the Coastal Plains Regional Commission program, or any other limiting federally funded program, or where an individual is solicited for a special talent and is thereby awarded a scholarship, fellowship or assistantship, a special tuition rate not lower than the North Carolina resident rate may be granted in the discretion of the board of trustees of the institution. No special tuition rate may be granted to an individual serving exclusively as a faculty member on a part-time basis and who is enrolled at the same time as a part-time student; provided, however, that the Advisory Budget Commission is hereby authorized to modify this provision to alleviate justifiable budget difficulties in the affected institutions during the 1971-73 biennium.

Notwithstanding the above provision relating to the abolition of free tuition, the Board of Governors of the University of North Carolina may, in its discretion, provide regulations under which a full-time faculty member of the rank of full-time instructor or above, and any full-time staff member, may during the period of normal employment enroll for courses in their respective institutions free of charge for tuition, provided such enrollment does not interfere with normal employment obligations. (1933, c. 320, s. 1; 1939, cc. 178, 253; 1949, c. 586; 1961, c. 833, s. 16.1; 1963, c. 448, s. 27.1; 1965, c. 903; 1971, c. 845, ss. 6, 10; c. 1086, s. 2; c. 1244, s. 12; 1973, c. 116, s. 1.)

Editor's Note.—

The 1973 amendment deleted the former second and third paragraphs, which required advance deposits, and the former fourth paragraph, which required a nonrefundable fee upon application for admission.

Session Laws 1973, c. 116, s. 2, provides: "This act shall become effective upon its ratification and shall apply to terms beginning after May 1, 1973." The act was ratified on Mar. 29, 1973.

§ 116-143.1. **Definitions; military status provisions.**—(a) A nonresident shall be any person not qualifying for in-state tuition as hereinafter defined.

(b) To qualify for in-state tuition a legal resident must have maintained his domicile in North Carolina for at least the 12 months immediately prior to his classification as a resident for tuition purposes. In order to be eligible for such classification, the individual must establish that his or her presence in the State during such 12-month period was for purposes of maintaining a bona fide domicile rather than for purposes of mere temporary residence incident to enrollment in an institution of higher education; further, (i) if the parents (or court-appointed legal guardian) of the individual seeking resident classification are (is) bona fide domiciliaries of this State, this fact shall be prima facie evidence of domiciliary status of the individual applicant and (ii) if such parents or guardian are not bona fide domiciliaries of this State, this fact shall be prima facie evidence of nondomiciliary status of the individual.

(c) No person shall lose his in-state resid[illegible] status by serving in the armed forces outside of the State of North Carolina.

(d) A person who, by virtue of bona fide legal residence in North Carolina for the requisite 12 months has been classified as a resident for tuition purposes but who, while enrolled in a State institution of higher education in North Carolina, loses North Carolina legal residence, shall continue to enjoy the in-state tuition rate for a statutory grace period. This grace period shall be measured from the date on which the culminating circumstances arose that caused loss of legal residence and shall continue for 12 months; provided that if the 12-month period ends during a semester or academic term in which such a former resident is enrolled at a State institution of higher education, such grace period s all extend, in addition, to the end of that semester or academic term.

(e) Any spouse of a North Carolina resident shall be entitled to in-state tuition rates at the beginning of the next succeeding academic period.

(f) Any person who by virtue of marriage to a North Carolina resident thereby acquires, by operation of law, a bona fide legal residence in North Carolina shall be eligible for in-state tuition rates at a time calculated in that one of the following ways which earlier confers such eligibility:

(1) If the original North Carolina resident spouse had maintained such legal residence for a period of at least 12 months immediately prior to the marriage, the newly resident spouse shall first be eligible for the in-state rate at the next succeeding semester, term or quarter following the date of marriage;

(2) If the original North Carolina resident spouse had not maintained such legal residence for a period of at least 12 months immediately prior to the marriage, the newly resident spouse shall first be eligible for the in-state rate at the next succeeding semester, quarter or term following expiration of 12 months of legal residence by the original resident spouse. (1971, c. 845, ss. 7-9; 1973, cc. 710, 1364, 1377.)

Editor's Note. The second 1973 amendment added subsection (d). The third 1973 amendment added subsections (e) and (f).

Congruent interpretations of sections (e) and (f) were provided by the Attorney General's office through an opinion of 12 June 1974.

§ 116-144. **Higher fees from nonresidents may be charged.**—The provisions of this article shall not be construed to prohibit the several boards of trustees from charging nonresident students tuition in excess of that charged resident students. (1933, c. 320, s. 3.)

Cited in Barker v. Iowa Mut. Ins. Co., 241 N.C. 397, 85 S.E.2d 305 (1955).

CHAPTER 845 OF THE 1971 SESSION LAWS

AN ACT TO REQUIRE NONRESIDENT STUDENTS AT THE STATE'S INSTITUTIONS OF HIGHER EDUCATION TO PAY TUITION THAT APPROXIMATES THE COST OF THEIR EDUCATION.

The General Assembly of North Carolina enacts:

SECTION 1. **Nonresident tuition for undergraduates at five-year and doctoral-granting institutions and at the School of the Arts, the University of North Carolina at Wilmington and the University of North Carolina at Asheville.**—The tuition for undergraduate college students who are nonresidents of the State and who are enrolled at the University of North Carolina at Chapel Hill, North Carolina State University at Raleigh, the University of North Carolina at Greensboro, the University of North Carolina at Charlotte, East Carolina University, North Carolina Agricultural and Technical State University, Western Carolina University, Appalachian State University, North Carolina Central University, the North Carolina School of the Arts, the University of North Carolina at Wilmington and the University of North Carolina at Asheville shall be $1,300 a year for the academic year beginning in or about September, 1971, and $1,800 for the academic year beginning in or about September, 1972, and all academic years thereafter. [The tuition for nonresident undergraduate students who are enrolled in the School of Medicine or at the School of Dentistry at the University of North Carolina at Chapel Hill shall be $1,800 a year for the academic year beginning in or about September, 1971, and $2,300 for the academic year beginning in or about September, 1972, and all academic years thereafter.*] The tuition for nonresident undergraduate students in the School of Public Health at the University of North Carolina at Chapel Hill shall be $1,400 for the academic year beginning in or about September, 1971, and $1,800 for the academic year beginning in or about September, 1972, and all academic years thereafter.

SEC. 2. **Nonresident tuition for undergraduates at four-year institutions.**—The tuition for undergraduate students who are nonresidents of the State and who are enrolled at Elizabeth City State University, Fayetteville State University, Pembroke State University and Winston-Salem State University shall be $1,150 a year for the academic year beginning in or about September, 1971, and $1,550 for the academic year beginning in or about September, 1972, and all academic years thereafter.

SEC. 3. **Nonresident tuition for graduate students.**—The tuition for graduate students who are nonresidents of the State who are enrolled at any of the public senior institutions of higher education shall be $1,300 a year for the academic year beginning in or about September, 1971, and $1,800 for the academic year beginning in or about September, 1972, and for all academic years thereafter.

SEC. 4. **Nonresident tuition for candidates for M.D. and D.D.S. degrees and a degree in Public Health.**—Notwithstanding the provisions of the foregoing sections, the tuition for nonresidents of the State who are enrolled as first-year medical students at East Carolina University and those who are enrolled as students at the School of Medicine or at the School of Dentistry at the University of North Carolina at

*This sentence was repealed by N.C. Sess. Laws 1973, c. 245, effective May 1, 1973.

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Chapel Hill, and who are pursuing a course of studies designed to lead either to the M.D. degree or the D.D.S. degree, shall be $1,800 a year for the academic year beginning in or about September, 1971, and $2,300 for the academic year beginning in or about September, 1972, and for all academic years thereafter. The tuition for nonresident students enrolled at the University of North Carolina at Chapel Hill who are pursuing a course of studies designed to lead to a degree in Public Health shall be $1,400 for the academic year beginning in or about September, 1971, and $1,800 for the academic year beginning in or about September, 1972, and for all academic years thereafter.

SEC. 5. **Nonresident tuition for students in Community College System.**—The tuition for students who are nonresidents of the State and who are enrolled in institutions in the Community College System shall be $400 a year for the academic year beginning in or about September, 1971, and $550 for the academic year beginning in or about September, 1972, and for all academic years thereafter.

. . . .

SEC. 11. **Budget adjustments.**—It is the intent of this act that allotment of 1971-72 and 1972-73 appropriations to all affected institutions will be adjusted in the fourth quarter of each fiscal year in an amount equal to the out-of-state tuition realized in excess of the out-of-state tuition budgeted for each institution at the previously existing rates.

SEC. 12. **Effective date.**—This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of July, 1971.

VI. Scholarships and Loans

A. Children of Veterans

Chapter 165. Veterans

ARTICLE 4.

Scholarships for Children of War Veterans.

§ 165-19. Purpose.—In appreciation for the service and sacrifices of North Carolina's war veterans and as evidence of this State's concern for their children, there is hereby continued a revised program of scholarships for said children as set forth in this article. (1967, c. 1060, s. 8.)

Revision of Article.—Session Laws 1967, c. 1060, s. 8, effective July 1, 1967, rewrote the former article, which related to copies of records concerning veterans. The former article consisted of four sections and derived from Session Laws 1945, c. 1064.

§ 165-20. Definitions.—As used in this article the terms defined in this section shall have the following meaning:

(1) "Active federal service" means full-time duty in the armed forces other than active duty for training; however, if disability or death occurs while on active duty for training (i) as a direct result of armed conflict or (ii) while engaged in extra-hazardous service, including such service under conditions simulating war, such active duty for training shall be considered as active federal service.

(2) "Armed forces" means the army, navy, marine corps, air force and coast guard, including their reserve components.

(3) "Child" means a person who has completed high school or its equivalent prior to receipt of a scholarship as may be awarded under this Article and who further meets one of the following requirements:

a. A person whose veteran parent was a legal resident of North Carolina at the time of said veteran's entrance into the armed forces.

b. A veteran's child who was born in North Carolina and has lived in North Carolina continuously since birth. Provided, that the requirement in the preceding sentence as to birth in North Carolina may be waived by the North Carolina Department of Veteran's Affairs if it is shown to the satisfaction of the Department that the child's mother was a native-born resident of North Carolina and was such resident at the time of her marriage to the veteran and was outside the State temporarily at the time of the child's birth, following which the child was returned to North Carolina within a reasonable period of time where said child has since lived continuously.

c. A person meeting either of the requirements set forth in subdivision (3) a or b above, and who was legally adopted by the veteran prior to said person's reaching the age of six years.

(4) "Period of war" and "wartime" shall mean any of the periods or circumstances as defined below:

a. World War I, meaning (i) the period beginning on April 6, 1917 and ending on November 11, 1918, and (ii) in the case of a veteran who served with the United States armed forces in Russia, the period beginning on April 6, 1917 and ending on April 1, 1920.

b. World War II, meaning the period beginning on December 7, 1941 and ending on December 31, 1946.

c. Korean Conflict, meaning the period beginning on June 27, 1950 and ending on January 31, 1955.

d. Vietnam era, meaning the period beginning on August 5, 1964, and ending on such date as shall be prescribed by Presidential proclamation or concurrent resolution of the Congress.

e. Any period of service in the armed forces during which the veteran parent of an applicant for a scholarship under this article suffered death or disability (i) as a direct result of armed conflict or (ii) while engaged in extra-hazardous service, including such service under conditions simulating war.

(5) "Private educational institution" means any junior college, senior college or university which is operated and governed by private interests not under the control of the federal, State or any local government, which is located within the State of North Carolina, which does not operate for profit, whose curriculum is primarily directed toward the awarding of associate, baccalaureate or graduate degrees, which agrees to the applicable administration and funding provisions of § 165-22.1 of this article, and which is otherwise approved by the State Board of Veterans Affairs.

(6) "State educational institution" means any educational institution of higher learning which is owned and operated by the State of North Carolina, or any community college operated under the provisions of Chapter 115A and Article 3 of Chapter 116 of the General Statutes of North Carolina, or the college program of the North Carolina School of the Arts, or any technical institute operated under the provisions of Chapter 115A of the General Statutes of North Carolina.

(7) "Veteran" means a person who served as a member of the armed forces of the United States in active federal service during a period of war and who was separated from the armed forces under conditions other than dishonorable. A person who was separated from the armed forces under conditions other than dishonorable and whose death or disability was incurred (i) as a direct result of armed conflict or (ii) while engaged in extra-hazardous service, including such service under conditions simulating war, shall also be deemed a "veteran" and such death or disability shall be considered wartime service-connected. (1967, c. 1060, s. 8; 1969, c. 720, s. 3; c. 741, ss. 1, 2; 1971, c. 339; 1973, c. 755.)

Editor's Note.—The first 1969 amendment, effective July 1, 1969, added present paragraph d of subdivision (4) and redesignated former paragraph d of that subdivision as e.

The second 1969 amendment, effective July 1, 1969, added present subdivision (5), inserted "chapter 115A and" and "the college program of" in present subdivision (6) and redesignated former subdivisions (5) and (6) as present subdivisions (6) and (7).

§ **165-21. Scholarship.** — A scholarship granted pursuant to this article shall consist of the following benefits in either a State or private educational institution:

(1) With respect to State educational institutions, unless expressly limited elsewhere in this article, a scholarship shall consist of:

a. Tuition,

b. A reasonable board allowance,

c. A reasonable room allowance,

d. Such other items and institutional service as are embraced within the so-called institutional matriculation fees and other special fees and charges required to be paid as a condition to remaining in said institution and pursuing the course of study selected.

(2) With respect to private educational institutions, a scholarship shall consist of a monetary allowance as prescribed in § 165-22.1 (d).

(3) Only one scholarship may be granted pursuant to this article with respect to each child and it shall not extend for a longer period than four academic years, which years, however, need not be consecutive. (1967, c. 1060, s. 8; 1969, c. 741, s. 3.)

Editor's Note.—
The 1969 amendment, effective July 1, 1969, rewrote this section.

§ **165-22. Classes or categories of eligibility under which scholarships may be awarded.** — A child, as defined in this article, who falls within the provisions of any eligibility class described below shall, upon proper application be considered for a scholarship, subject to the provisions and limitations set forth for the class under which he is considered:

service-connected disability of one hundred percent (100%) as rated by the United States Veterans Administration. Provided, that if the veteran parent of a recipient under this class should die of his wartime service-connected condition before the recipient shall have utilized all of his scholarship eligibility time, then the North Carolina Department of Veterans Affairs shall amend the recipient's award from Class I-B to Class I-A for the remainder of the recipient's eligibility time. The effective date of such an amended award shall be determined by the North Carolina Department of Veterans Affairs, but, in no event, shall it predate the date of the veteran parent's death.

(1) Class I-A: Under this class a scholarship shall be awarded to any child whose veteran parent

a. Was killed in action or died from wounds or other causes not due to his own wilful misconduct while a member of the armed forces during a period of war, or

b. Has died of service-connected injuries, wounds, illness or other causes incurred or aggravated during wartime service in the armed forces, as rated by the United States Veterans Administration.

(2) Class I-B: Under this class a limited scholarship providing only those benefits set forth in G.S. 165-21(1)a and d and G.S. 165-21(2) of this Article, shall be awarded to any child whose veteran parent, at the time the benefits pursuant to this Article are sought to be availed of, is or was at the time of his death receiving compensation for a wartime service-connected disability of one hundred percent (100%) as rated by the United States Veterans Administration. Provided, that if

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the veteran parent of a recipient under this class should die of his wartime service-connected condition before the recipient shall have utilized all of his scholarship eligibility time, then the North Carolina Department of Veterans Affairs shall amend the recipient's award from Class I-B to Class I-A for the remainder of the recipient's eligibility time. The effective date of such an amended award shall be determined by the North Carolina Department of Veterans Affairs, but, in no event shall it predate the date of the veteran parent's death.

(3) Class II: Under this class a scholarship may be awarded to not more than one hundred children yearly, each of whose veteran parent, at the time the benefits pursuant to this article are sought to be availed of,

a. Is or was at the time of his death receiving compensation for a wartime service-connected disability of thirty percent (30%) or more, but less than one hundred percent (100%), as rated by the United States Veterans Administration, or

b. Is or was at the time of his death receiving wartime compensation for a statutory award for arrested pulmonary tuberculosis, as rated by the United States Veterans Administration, or

c. Was a prisoner of war for a period of at least six months and who was wounded in combat against an enemy of the United States of America during the time of war and is or was at the time of his death receiving compensation for a wartime service-connected disability of twenty percent (20%) or more, as rated by the United States Veterans Administration.

(4) Class III: Under this class a scholarship may be awarded to not more than one hundred children yearly, each of whose veteran parent, at the time the benefits pursuant to this article are sought to be availed of, is or was at the time of his death drawing pension for permanent and total disability, nonservice-connected, as rated by the United States Veterans Administration.

(5) Class IV: Under this class a scholarship as defined in G.S. 165-21 shall be awarded to any child whose parent, while serving honorably as a member of the armed forces of the United States in active federal service during a period of war, as defined in G.S. 165-20(4), was listed by the United States government for a total of more than 90 days as (i) missing in action, (ii) captured in line of duty by a hostile force, or (iii) forcibly detained or interned in line of duty by a foreign government or power. (1967, c. 1060, s. 8; 1973, cc. 197, 577.)

Editor's Note.—
The first 1973 amendment substituted "G.S. 165-21(1)a and d and G.S. 165-21(2)" for "G.S. 165-21(a)(1) and (4), and G.S. 165-21(b)" near the beginning of subdivision (2).
The second 1973 amendment added subdivision (5).

§ 165-22.1. Administration and funding. — (a) The administration of the scholarship program shall be vested in the Department of Military and Veterans Affairs, and the disbursing and accounting activities required shall be a responsibility of the Department of Administration. The Veterans Affairs Commission shall determine the eligibility of applicants, select the scholarship recipients, establish the effective date of scholarships, and may suspend or revoke scholarships if the said Veterans Affairs Commission finds that the recipient does not maintain an adequate academic status, or if the recipient engages in riots, unlawful demonstrations, the seizure of educational buildings, or otherwise engages in disorderly conduct, breaches of the peace or unlawful assemblies. The Department of Military and Veterans Affairs shall maintain the primary and necessary records, and the Veterans Affairs Commission shall promulgate such rules and regulations not incon-

sistent with the other provisions of this Article as it deems necessary for the orderly administration of the program. It may require of State or private educational institutions, as defined in this Article, such reports and other information as it may need to carry out the provisions of this Article. The Department of Administration shall disburse scholarship payments for recipients certified eligible by the Department of Military and Veterans Affairs upon certification of enrollment by the enrolling institution.

(b) Funds for the support of this program shall be appropriated to the Department of Administration as a reserve for payment of the allocable costs for room, board, tuition, and other charges, and shall be placed in a separate budget code from which disbursements shall be made. In the event the said appropriation for any year is insufficient to pay the full amounts allocable under the provisions of this article, such supplemental sums as may be necessary shall be allocated from the Contingency and Emergency Fund. The method of disbursing and accounting for funds allocated for payments under the provisions of this section shall be in accordance with those standards and procedures prescribed by the Director of the Budget, pursuant to the Executive Budget Act.

(c) Allowances for room and board in State educational institutions shall be at such rate as the Director of the Budget may determine to be reasonable.

(d) Scholarship recipients electing to attend a private educational institution shall be granted a monetary allowance for each term or other academic period attended under their respective scholarship awards. All recipients under Class I-B scholarship shall receive an allowance at one rate, irrespective of course or institution; all recipients under Classes I-A, II and III shall receive an [a] uniform allowance at a rate higher than for Class I-B, irrespective of course or institution. The amount of said allowances shall be determined by the Director of the Budget and made known prior to the beginning of each fall quarter or semester; provided that the Director of the Budget may change the allowances at intermediate periods when in his judgment such changes are necessary. Disbursements by the State shall be to the private institution concerned, for credit to the account of each recipient attending said institution. The manner of payment to any private institution shall be as prescribed by the Department of Administration. The participation by any private institution in the program shall be subject to the applicable provisions of this Article and to examination by State auditors of the accounts of scholarship recipients attending or having attended private institutions. The Veterans Affairs Commission may defer making an award or may suspend an award in any private institution which does not comply with the provisions of this Article relating to said institutions.

(e) Irrespective of other provisions of this Article, the Veterans Affairs Commission may prescribe special procedures for adjusting the accounts of scholarship recipients who for reasons of illness, physical inability to attend class or for other valid reason satisfactory to the Director of the Veterans Affairs Commission may withdraw from State or private educational institutions prior to the completion of the term, semester, quarter or other academic period being attended at the time of withdrawal. Such procedures may include, but shall not be limited to, paying the recipient the dollar value of his unused entitlements for the academic period being attended, with a corresponding deduction of this period from his remaining scholarship eligibility time. (1967, c. 1060, s. 8; 1969, c. 720, ss. 4, 5; c. 741, s. 4; 1971, c. 458; 1973, c. 620, s. 9.)

Editor's Note. —

The 1973 amendment substituted "Department of Military and Veterans Affairs" for "North Carolina Department of Veterans Affairs" near the beginning of the first sentence and for "Department of Veterans Affairs" in the last sentence of subsection (a), substituted "Veterans Affairs Commission" for "Department of Veterans Affairs" in two places in the second sentence of subsection (a), in the last sentence of subsection (d), and in subsection (e) and substituted "Veterans Affairs Commission" for "Director of the Department of Veterans Affairs" in subsection (e). The amendment also rewrote the third sentence of subsection (a).

As subsections (b) and (c) were not changed by the amendment, they are not set out.

B. Prospective Public School Teachers

Chapter 116. Higher Education

ARTICLE 18.

Scholarship Loan Fund for Prospective Teachers.

§ 116-171. Establishment of Fund.—There is hereby established a revolving loan fund which shall be known as the "Scholarship Loan Fund for Prospective Teachers." (1957, c. 1237.)

§ 116-172. Appropriations paid into Fund; how administered.—Such funds as may be appropriated by the General Assembly to said fund or to the State Board of Education for the purpose of a student loan fund for teacher education shall be paid into the Scholarship Loan Fund for Prospective Teachers and administered by the State Board of Education and the State Superintendent of Public Instruction as follows:

During the first year of the 1957-1959 biennium, to provide for prospective teachers not to exceed 300 regular scholarship loans in the amount of not more than three hundred fifty dollars ($350.00) each, and for the second year of the biennium to provide for such persons not to exceed 600 regular scholarship loans in the amount of not more than three hundred fifty dollars ($350.00) each, and for each summer of said biennium to provide for prospective teachers and for teachers taking undergraduate courses not to exceed 200 summer school scholarship loans in the amount of not more than seventy-five dollars ($75.00) each; provided, however, the State Board of Education in its discretion may, within the funds available, vary the number and proportion of regular and summer scholarship loans to be established in any one year.

During years after the first biennium in which this Fund shall be established, loans of the type and amounts provided for during the first biennium shall be made in such numbers and amounts and proportions as the State Board of Education in its discretion may prescribe within the funds available from appropriations or otherwise. (1957, s. 1237.)

§ 116-173. Duration of Fund; loans repaid and interest received added to Fund and administered for same purposes.—The Scholarship Loan Fund for Prospective Teachers shall continue in effect until terminated by action of the General Assembly of North Carolina and such amounts of loans as shall be repaid from time to time under the provisions of this article, together with such amounts of interest as may be received on account of loans made shall become a part of the principal amount of said Loan Fund and shall be administered for the same purposes and under the same provisions as are set forth herein to the end that such funds may be utilized in addition to such further amounts as may be appropriated from time to time by the General Assembly to said Loan Fund. (1957, c. 1237.)

§ 116-174. Fund administered by State Superintendent of Public Instruction; rules and regulations.—The Scholarship Loan Fund for Prospective Teachers shall be administered by the State Superintendent of Public Instruction, under the following rules and regulations, and under such further rules and regulations as the State Board of Education shall in its discretion promulgate:

(1) Any resident of North Carolina who is interested in preparing to teach in the public schools of the State shall be eligible to apply in writing to the State Superintendent of Public Instruction for a regular scholarship loan in the amount of not more than three hundred fifty dollars ($350.00) per academic school year and any such person or any person who is teaching in the public schools of the State and is interested in taking further undergraduate courses shall be eligible to apply for a summer school scholarship loan in the amount of not more than seventy-five dollars ($75.00). Recipients of scholarship loans may attend any North Carolina college or university, public or private, which offers teacher training or work leading to teacher training and which is approved by the State Board of Education; except that scholarship loans may not be used in obtaining credit through correspondence or extension courses.

(2) All scholarship loans shall be evidenced by notes made payable to the State Board of Education which shall bear interest at the rate of 4% per annum from and after September 1 following fulfillment by a prospective teacher of the requirements for a teacher's certificate based upon the bachelor's degree; or in the case of persons already teaching in the public schools who obtain scholarship loans such notes shall bear interest at the prescribed rate from and after September 1 of the school year beginning immediately after the use of such scholarship loans; or in the event any such scholarship shall be terminated under the provisions of paragraph (3) of this section then such notes shall bear interest from the date of such termination. A minor recipient who signs such note or notes shall also obtain the endorsement thereon by a parent, if there be a living parent, unless such endorsement is waived by the Superintendent of Public Instruction. Such minor recipient shall be obligated upon such note or notes as fully as if he or she were of age and shall not be permitted to plead such minority as a defense in order to avoid the obligations undertaken upon such note or notes.

(3) Each recipient of a scholarship loan under the provisions of this program shall be eligible for scholarship loans each year until he has qualified for a teacher's certificate based upon the bachelor's degree, but he shall not be so eligible for more than four years nor after qualifying for said certificate. The permanent withdrawal of any recipient from college or failure of such recipient to do college work in a manner acceptable to the State Superintendent of Public Instruction will immediately forfeit such recipient's right to retain such scholarship and subject such scholarship to termination by the State Superintendent of Public Instruction in his discretion. All terminated scholarships shall be regarded as vacant and subject to being awarded to other eligible persons.

(4) Except under emergency conditions applicable to the State Superintendent of Public Instruction, recipients of scholarship loans shall enter the public school system of North Carolina or shall become regularly employed as teachers in schools operated by the United States government on military reservations in the State of North Carolina at the beginning of the next school term after qualifying for a teacher certificate based upon the bachelor's degree or in case of persons already teaching in the public schools or in schools operated by the United States government on military reservations in North Carolina at the beginning of the next school term after the use of such loan. All teaching service for which the recipient of any scholarship loan is obligated shall be rendered within seven years after the completion of the use of each such scholarship loan.

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(5) For each full school year taught in a North Carolina public school or in a school operated by the United States government on the military reservation in the State of North Carolina, the recipient of a scholarship loan shall receive credit upon the amount due by reason of such loan equal to all interest accrued upon the loan to that time plus a credit of three hundred fifty dollars ($350.00) upon the principal amount of such obligation or such lesser amount as may remain due upon said principal; provided, however, that in lieu of teaching in the public school or in any school operated by the United States government on a military reservation in North Carolina, a recipient may elect to pay in cash the full amount of scholarship loans received plus interest then due thereon or any part thereof which has not been cancelled by the State Board of Education by reason of teaching service rendered.

(6) If any recipient of a scholarship loan who is fulfilling his obligation under paragraph (4) of this section dies within the seven-year period, or if any recipient dies during the period of attendance at a college or university under a scholarship loan, any balance that has not been discharged through service shall be automatically cancelled.

If any recipient of a scholarship loan fails to fulfill his obligations under paragraph (4) of this section, other than as provided above, the amount of his loan and accrued interest, if any, shall be due and payable from the time of failure to fulfill such obligations.

(7) The State Superintendent of Public Instruction shall award scholarship loans with due consideration to such factors and circumstances as: Aptitude, purposefulness, scholarship, character, financial need, and areas or subjects of instruction in which the demands for teachers are greatest. Since the primary purpose of this article is to attract worthy young people to the teaching profession, preference shall be given to high school seniors in the awarding of scholarships. (1957, c. 1237; 1973, c. 581, ss. 1, 2.)

C. Prospective College Teachers

§ **116-71. Purpose of article.**—The purpose of this article is to encourage, assist, and expedite the postgraduate level education and training of competent teachers for the public and private universities, colleges and technical institutes in this State by the granting of loans to finance such study. The funds shall be used to increase the number of teaching faculty as distinguished from research specialists. (1965, c. 1148, s. 1.)

Editor's Note. — Section 3 of the act adding this article makes it effective July 1, 1965.

§ **116-72. Fund established.**—There is established a loan fund for prospective college teachers to assist capable persons to pursue study and training leading to masters or doctorate degrees in preparation to become teachers in the public and private institutions of education beyond the high school in North Carolina. Both private and public sources may be solicited in the creation of the fund. (1965, c. 1148, s. 1.)

§ **116-73. Joint committee for administration of Fund; rules and regulations.**—"The Scholarship Loan Fund for Prospective College Teachers" shall be the responsibility of the Board of Governors of the University of North Carolina and the State Board of Education and will be administered by them through a joint committee, "The College Scholarship Loan Committee." This committee will operate under the following rules and regulations and under such further rules and regulations as the Board of Governors of the University of North Carolina and the State Board of Education shall jointly promulgate.

(1) The nomination of applicants and recommendations of renewals shall be the responsibility of the College Scholarship Loan Committee.

(2) Loans should be made for a single academic year (nine months) with renewal possible for two successive years for students successfully pursuing masters or doctoral programs. Loans shall not exceed two thousand dollars ($2,000) for single students and three thousand dollars ($3,000) for married students.

(3) All scholarship loans shall be evidenced by notes, with sufficient sureties, made payable to the State Board of Education, and shall bear interest at the rate of four percent (4%) per annum from and after September 1 following the awarding of the candidate's degree.

(4) Recipients of loans may have them repaid by teaching in a college or other educational institution beyond the high school level in North Carolina upon completion of their masters or doctorate degree program, at the rate of one hundred dollars ($100.00) per month for each month of such teaching. If a student supported by a loan in this program should fail to so teach in a North Carolina institution, the loan would become repayable to the State, with interest, for that part of the teaching commitment not met, said note to be repaid according to the terms thereof.

(5) Loans for 12 weeks of summer study, carrying stipends not to exceed five hundred dollars ($500.00) for single and married students, should be available to students who do not plan to attend postgraduate school as full-time students during the regular academic year. Recipients should be eligible for up to three renewals over a four-year period. The obligation to teach in a North Carolina college or other educational institution, or failing that, to repay the State, shall apply proportionally as indicated above. (1965, c. 1148, s. 1; 1971, c. 1244, s. 14.)

Editor's Note. — The 1971 amendment, effective July 1, 1972, substituted "Board of Governors of the University of North Carolina" for "State Board of Higher Education" in two places in the first paragraph.

§ 116-74. Duration of Fund; use of repaid loans and interest.—The Scholarship Loan Fund for Prospective College Teachers shall continue in effect until terminated by action of the General Assembly of North Carolina. Such amounts of loans as shall be repaid from time to time under the provisions of this article, together with such amounts of interest as may be received on account of loans made shall become a part of the principal amount of said Loan Fund. These funds shall be administered for the same purposes and under the same provisions as are set forth herein to the end that they may be utilized in addition to such further amounts as may be privately donated or appropriated from time to time by public or corporate bodies. (1965, c. 1148, s. 1.)

D. Health Services Personnel

Chapter 131. Public Hospitals

Article 13.

Medical Care Commission and Program of Hospital Care.

. . . .

§ 131-121. Medical and other students; loan fund. — For the purpose of increasing the number of qualified people in the health services in North Carolina and especially in communities of limited population, mental health facilities and other areas where a shortage of health personnel exists, the Department of Human Resources is hereby authorized and empowered, in accordance with such regulations as the North Carolina Medical Care Commission may adopt, to make loans and award scholarships to students who are residents of North Carolina and who may wish to become physicians, dentists, optometrists, pharmacists, nurses, nurse instructors, nurse anesthetists, medical technicians, social workers, psychologists and students

who are enrolled in other studies to be decided by the Commission leading to specialization in the health professions and who are accepted in any school, college or university giving accredited courses in these specialized areas provided such students shall agree that upon graduation and being duly licensed or qualified to practice their profession in North Carolina in such field, geographic area or facilities as the Commission may designate for one calendar year for each academic year or fraction thereof for which a loan or scholarship is granted. The loans shall bear such interest rate as contracted for not to exceed the per annum interest rate allowed by law. The Department shall have the authority to cancel any contract made between it and any applicant for assistance upon such cause deemed sufficient by the Department; provided, the assent to cancellation be first obtained from the Attorney General of North Carolina. The North Carolina Medical Care Commission is hereby granted full power and authority to make reasonable rules and regulations so as to implement and promote the student loan and scholarship program in the best interests of the State.

The Department of Human Resources is hereby authorized and empowered to expend up to thirty thousand dollars ($30,000) per biennium from its appropriations for scholarship loans for the purposes of establishing programs for the recruitment of persons interested in embarking upon careers in the health professions who are eligible for financial assistance under G.S. 131-121, 131-121.3 and 131-124, encouraging nonpracticing nurses to return to their profession and encouraging the establishment of new training schools of nursing.

All funds heretofore appropriated to the North Carolina Medical Care Commission for student loans and scholarships, including the appropriation made by Chapter 1185 of the Session Laws of 1963, shall be administered by the Department pursuant to the provisions of this section. This section shall be applicable also to all loans or scholarship funds repaid to the Department pursuant to this program. (1945, c. 1096; 1947, c. 933, s. 2; 1949, c. 1019; 1953, c. 1222; 1959, c. 1028, ss. 1-4; c. 1165; 1963, c. 365, s. 1; c. 493; 1965, c. 485, s. 1; c. 1154; 1969, cc. 1069, 1219; 1973, c. 476, s. 152; c. 1090, s. 1.)

Editor's Note. — The second 1973 amendment changed the name of the Commission for Medical Facility Services and Licensure to North Carolina Medical Care Commission.

§§ 131-121.1, 131-121.2: Repealed by Session Laws 1965, c. 485, s. 2.

Editor's Note.—Section 2 of the repealing act provides that "said laws shall continue in full force and effect with respect to any obligations created by any loan or scholarship agreements outstanding upon the effective date of this act."

§ 131-121.3. Scholarships for medical technicians.—There is hereby appropriated out of the general fund of the State to the North Carolina Medical Care Commission the sum of twenty-five thousand dollars ($25,000.00) to be used for the establishment of scholarships for medical technicians.

Said scholarship program shall provide for payments of twenty-five dollars ($25.00) per month for the first six (6) months and payments of fifty dollars ($50.00) per month for the last twelve (12) months.

Said scholarship program is to be administered by the North Carolina Medical Care Commission and shall be used in connection with the accredited schools now established in this State. (1963, c. 1185.)

§ 131-124. Medical training for Negroes. — The Department of Human Resources shall make careful investigation of the methods for providing necessary medical training for Negro students, and shall report its findings to the next session of the General Assembly. In addition to the benefits provided by G.S. 116-110, the Department of Human Resources is hereby authorized to make loans to Negro medical students from the fund provided in G.S. 131-121, subject to such rules, regulations, and conditions as the North Carolina Medical Care Commission may prescribe. (1945, c. 1096; 1973, c. 476, s. 152; c. 1090, s. 1.)

Editor's Note. See page 181 and 182 for the appropriations to the Duke and Wake Forest medical schools.

E. Prospective Dentists

Chapter 130. Public Health

ARTICLE 19.

Loan Fund for Dental Students.

§ 130-188. State Board of Health.—The State Board of Health is hereby authorized to establish a loan fund to be known as "The Little Jack Loan Fund" for junior and senior dental students by setting aside an amount, not to exceed twenty-two thousand, five hundred dollars ($22,500.00), for such purpose from the special dental fund. (1953, c. 916, s. 1; 1957, c. 1357, s. 1.)

§ 130-189. Conditions under which loans to be made.—Loans are to be made upon agreement that the recipient will, upon graduation from dental school and the securing of license to practice dentistry in North Carolina, join the staff of the Department of Human Resources in the area of oral hygiene, and repay said Department each month, from salary received, an amount to be agreed upon by the loan committee and the recipient, until said loan is paid in full. The loan is to be secured by approved notes, without interest. Should said borrower-employer relationship be severed, for any cause, the unpaid balance of the loan will become due immediately. (1953, c. 916, s. 2; 1957, c. 1357, s. 1; 1973, c. 476, s. 128.)

Editor's Note. — The 1973 amendment, effective July 1, 1973, substituted "Department of Human Resources in the area of oral hygiene" for "Division of Oral Hygiene of the North Carolina State Board of Health" and "said Department" for "said Board of Health" in the first sentence.

§ 130-190. Administration and custody of loan fund; selection of recipients; loans to minors.—Administration of the loan fund and selection of recipients are to be directed by a loan committee to be composed of the Secretary of Human Resources, the dental member of the Commission for Health Services and an individual selected by the Secretary with responsibilities in the area of oral hygiene. The budget officer of the Department of Human Resources is to be the custodian of the loan fund and will issue checks and receive payments of loans. The loan committee herein established shall have the power and authority to formulate and negotiate all contracts involved in making loans under this Article. It shall have the power and authority to impose such reasonable contractual conditions as may be necessary to safeguard the fund herein established and shall fix all conditions as to amounts, length of time loans shall run, conditions of repayment and any and all things necessary to carry out the intent and purpose of this Article. The fact that a junior or a senior dental student is under 18 years of age shall not invalidate any obligation signed by such junior or senior dental student under the provisions of this Article and all such contracts, notes, agreements and other papers and documents signed by any junior or senior dental student under 18 years of age shall be legal, valid, binding and enforceable to the same extent as if said junior or senior dental student had already attained the age of 18 years or more. (1953, c. 916, s. 3; 1957, c. 1357, s. 1; 1971, c. 1231, s. 1; 1973, c. 476, s. 128.)

Editor's Note.—

The 1973 amendment, effective July 1, 1973, substituted "Secretary of Human Resources" for "State Health Director," "Department of Human Resources" for "State Board of Health" and "an individual selected by the Secretary with responsibilities in the area of oral hygiene" for "Director of the Division of Oral Hygiene" in the first sentence and substituted "Commission for Health Services" for "State Board of Health" in the second sentence.

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F. Minors Borrowing for Higher Education

Chapter 116. Higher Education

ARTICLE 18A.

Contracts of Minors Borrowing for Higher Education; Scholarship Revocation.

§ 116-174.1. Minors authorized to borrow for higher education; interest; requirements of loans.—All minors in North Carolina of the age of seventeen years and upwards shall have full power and authority to enter into written contracts of indebtedness, at a rate of interest not exceeding the contract rate authorized in chapter 24 of the General Statutes, with persons and educational institutions or with firms and corporations licensed to do business in North Carolina and to execute notes evidencing such indebtedness. Such loans shall be:

(1) Unsecured by the conveyance of any property as security, whether real, personal or mixed;

(2) For the sole purpose of borrowing money to obtain post-secondary education at an accredited college, university, junior college, community college, technical institute, industrial education center, business or trade school provided, however, that none of the proceeds of such loans shall be used to pay for any correspondence courses;

(3) The proceeds of any loan shall be disbursed either directly to the educational institution for the benefit of the borrower or jointly to the borrower and the educational institution. (1963, c. 780; 1969, c. 1073.)

Editor's Note. — The 1969 amendment rewrote this section.

Quoted in Gastonia Personnel Corp. v. Rogers, 276 N.C. 279, 172 S.E.2d 19 (1970).

§ 116-174.2. Grounds for revocation of scholarships.—Any student regularly registered and enrolled as an undergraduate, graduate, or professional student in a state-supported college, university or community college who shall be convicted, enter a plea of guilty or nolo contendere upon an indictment or charge for engaging in a riot, inciting a riot, unlawful demonstration or assembly, seizing or occupying a building or facility, sitting down in buildings they have seized, or lying down in entrances to buildings or any facilities, or on the campus of any college, university, or community college, or any student, whether an undergraduate, graduate or professional student who shall forfeit an appearance bond on an indictment or charge of any of the above-named offenses, shall have revoked and withdrawn from his benefit all state-supported scholarships or any State funds granted to him for educational assistance. It shall be the duty of all persons or officials having charge of and authority over the granting of state-supported scholarships or any other form of financial assistance to immediately revoke and withdraw same in the event and upon the happening of any of the conditions or matters above enumerated; provided, however, that in subsequent academic terms any such student shall be eligible to be considered for and to be granted financial assistance from State funds. (1969, c. 1019.)

VII. Escheats and Abandoned Property (Chapter 116A)

Sec.
116A-1. Escheats to Escheat Fund.
116A-2. Unclaimed real and personal property escheats to the Escheat Fund.
116A-3. Unclaimed personalty on settlements of decedents' estates to the Escheat Fund.
116A-4. Other unclaimed personalty.
116A-4.1. Uncashed money orders and travelers checks.
116A-5. Unclaimed funds held or owing by life insurance campanies.
116A-6. Certain unclaimed bank deposits to Escheat Fund.
116A-7. Other escheats.
116A-7.1. Reports required.
116A-7.2. Penalty for failure to make reports.
116A-8. Escheat Fund.
116A-9. Distribution of income of Fund.
116A-10. Terms of loans.
116A-11. Statute of limitations.

Editor's Note. — Session Laws 1971, c. 1135, ss. 2 and 3, effective July 1, 1971, enacted §§ 116A-1 to 116A-7 and 116A-8 to 116A-10 of this Chapter. Sections 116A-1 to 116A-7 incorporated, in revised form, the provisions of former §§ 116-20 to 116-25.

Session Laws 1971, c. 1135, s. 4, provides: "G.S. 55-130, G.S. 53-20 (l) and (p) and all other statutes referring to the 'University of North Carolina' in connection with escheats is hereby amended by changing 'University of North Carolina' to 'State Treasurer'."

§ 116A-1. Escheats to Escheat Fund.—All real estate which has heretofore accrued to the State, or shall hereafter accrue from escheats, shall be vested in the Escheat Fund. Title to any such real property which has escheated to the Escheat Fund shall be conveyed by deed in the manner now provided by G.S. 146-74 through G.S. 146-78, except as is otherwise provided herein: Provided, that in any action in the superior court of North Carolina wherein the State Treasurer is a party, and wherein said court enters a judgment of escheat for any real property, then, upon petition of the State Treasurer in said action, said court shall have the authority to appoint the State Treasurer or his designated agent as a commissioner for the purpose of selling said real property at a public sale, for cash, at the courthouse door in the county in which the property is located, after properly advertising the sale according to law. The said Commissioner, when appointed by the court, shall have the right to convey a valid title to the purchaser of the property at public sale. The funds derived from the sale of any such escheated real property by the commissioner so appointed shall thereafter be paid by him into the Escheat Fund. (Const., art. 9, s. 7; 1789, c. 306, s. 2; P. R.; R. C., c. 113, s. 11; Code, s. 2626; Rev., s. 4282; C. S., s. 5784; 1947, c. 494; 1961, c. 257; 1971, c. 1135, s. 2.)

Editor's Note.—

For comment on escheat of intangible property, see 2 Wake Forest Intra. L. Rev. 100 (1966).

When Real Property Escheats. — Real property escheats only when the owner dies intestate or dies testate without disposing of the same by will and without leaving surviving any heir, kindred or spouse to inherit under the laws of this State. In re Estate of Nixon, 2 N.C. App. 422, 163 S.E.2d 274 (1968).

— This section was formerly § 116-20. It was revised and transferred to its present position by Session Laws 1971, c. 1135, s. 2, effective July 1, 1971.

§ 116A-2. Unclaimed real and personal property escheats to the Escheat Fund.—Whenever the owner of any real or personal property situated or located within this State dies intestate, or dies testate but did not dispose of all real or personal property by will, without leaving surviving any heirs, kindred or spouse to inherit said property under the laws of this State, such real and personal property shall escheat. The State Treasurer shall have the right to institute a civil action in the superior court of any county in which such real or personal property is situated, against any administrator, executor, and unknown heirs or unknown claimants as party defendants, which unknown heirs or unknown claimants may be served with summons and notice of such action by publication as is now provided by the laws of this State. The superior court in which such civil action is instituted shall have the authority to enter a judgment therein declaring the real and personal property unclaimed as having escheated, and the real property may be sold according to the provisions of G.S. 116A-1. A default final judgment may be entered by the clerk of the superior court in such cases when no answer is filed by the administrator, executor, unknown heirs or unknown claimants to the complaint, or if any answer is filed the allegations of the complaint are either admitted or not denied by such party defendants, and no claim is made in the answer to the property left by said deceased person. The funds derived from such sale shall be paid into the Escheat Fund where said funds, together with all other escheated funds, shall be held without liability for profit, or interest subject to any just claims therefor. (1957, c. 1105, s. 1; 1971, c. 1135, s. 2.)

Editor's Note. — This section was formerly § 116-21. It was revised and transferred to its present position by Session Laws 1971, c. 1135, s. 2, effective July 1, 1971.

§ 116A-3. Unclaimed personalty on settlements of decedents' estates to the Escheat Fund.—All sums of money or other personal estate of whatever kind which shall remain in the hands of any administrator, executor, administrator c.t.a., or personal representative when the administration of an estate of a person dying intestate, or partially intestate, without leaving any known heirs or spouse to inherit same, is ready to be closed, unrecovered or unclaimed by suit, by creditors, next of kin, or others entitled thereto, shall, prior to the closing of the administration of the estate, be paid, or delivered, by such administrator or executor to the State Treasurer as an escheat and shall be included in the disbursements in the final account of such estate. In such cases as above described, the State Treasurer is authorized to demand, sue for, recover, and collect such unclaimed moneys or other personal estate of whatever kind from any administrator, or executor after the estate is ready to be closed, or from the clerk of the superior court if the unclaimed assets have been paid over to him, and the State Treasurer shall hold the same without liability for profit or interest, subject to any just claims therefor. The provisions of this section and G.S. 116A-2 shall apply to the estate of a person missing for seven years and the State Treasurer may bring an action to have an administrator appointed in such case. (1957, c. 1105, ss. 2, 2½; 1971, c. 1135, s. 2.)

Editor's Note. — This section combines former §§ 116-22 and 116-22.1. The provisions of the former sections were revised, combined and transferred to their present position by Session Laws 1971, c. 1135, s. 2, effective July 1, 1971.

Recovery of Property Paid to University.—Lapse of time alone, absent a demand and refusal to pay, will not forfeit a just claim to recover property theretofore paid to the University under this section and § 116-23 relating to the disposition of unclaimed property. In re Estate of Nixon, 2 N.C. App. 422, 163 S.E.2d 274 (1968).

§ 116A-4. Other unclaimed personalty.—Personal property of every kind, except as is otherwise provided by this Chapter, including dividends of corporations, or of joint-stock companies or associations, including savings and loan associations, choses in action, and sums of money in the hands of any person including clerks of federal courts, firm or corporation which shall not be recovered or claimed by the parties entitled thereto for three years after the same shall become due and payable, shall be deemed derelict property, and shall be paid or delivered to the Escheat Fund and held without liability for profit or interest until a just claim therefor shall be preferred by the parties entitled thereto. (Code, ss. 2628, 2629; Rev., s. 4284; C. S., s. 5786; 1947, c. 614, s. 2; 1957, c. 1049; 1971, c. 1113; c. 1135, s. 2.)

Editor's Note. — This section was formerly § 116-23. It was revised and transferred to its present position by Session Laws 1971, c. 1135, s. 2, effective July 1, 1971.

Session Laws 1971, c. 1113, effective July 1, 1971, inserted "including clerks of federal courts" near the middle of the section.

§ 116A-4.1. Uncashed money orders and travelers checks.—(a) Any funds held or owing by any organization for the payment of any money order or travelers check on which such organization is directly liable shall be deemed abandoned property and shall be paid to the Escheat Fund:

(1) When the instrument in the case of a money order has been outstanding seven years from the date of its issuance or in the case of a travelers check when it has been outstanding 15 years from the date of its issuance, and

(2) When the last known address of the apparent owner of the instrument is in this State.

Where the records of the holder of the funds do not show a last known address of the apparent owner of a money order or travelers check, it is presumed that the last known address of the person entitled to the funds is in the state in which the money order or travelers check was issued. Any money order or travelers check held by any person, firm or corporation which remains unclaimed shall be deemed abandoned and paid to the Escheat Fund after three years.

(b) On or before the 1st day of June of each year, every organization shall pay to the State Treasurer all funds deemed abandoned pursuant to this section as of December 31 of the previous year. Such payment shall be accompanied by a statement setting forth such information as the State Treasurer may require.

(c) Any holder who has paid to the Escheat Fund moneys deemed abandoned property pursuant to the provisions of this section may make payment to any person appearing to such holder to be entitled thereto, and upon proof of such payment, the State Treasurer shall forthwith reimburse such holder to the extent of the full amount, without interest, paid into the Escheat Fund with respect to the instruments involved. If a holder declines or is unable to make payment to any person claiming ownership of funds paid to the Escheat Fund, the person claiming ownership may submit his claim to the State Treasurer who shall pay such claimant forthwith upon submission of adequate proof of ownership. (1971, c. 1135, s. 2.)

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§ 116A-5. Unclaimed funds held or owing by life insurance companies.—(a) Definitions.—The term "unclaimed funds" as used in this section shall mean and include all moneys held and owing by any life insurance company doing business in this State which shall have remained unclaimed and unpaid for five years or more after such moneys became due and payable under any life or endowment insurance policy, or moneys payable under annuity contracts or all dividends payable to holders of policies. A life insurance policy not matured by the prior death of the insured shall be deemed to be matured and the proceeds thereof shall be deemed to be "due and payable" within the meaning of this section when the insured shall have attained the limiting age under the mortality table on which the reserve is based. Moneys shall be deemed to be "due and payable" within the meaning of this section although the policy shall not have been surrendered nor proofs of death submitted as required and although the claim as to the payee is barred by a statute of limitations.

(b) Scope.—This section shall apply to all unclaimed funds, as herein defined, held and owing by any life insurance company doing business in this State where the last known address, according to the records of such company, of the person entitled to such funds is within this State, provided that if a person other than the insured be entitled to such funds and no address of such person be known to such company or if it be not definite and certain from the records of such company what person is entitled to such funds, then in either event it shall be presumed for the purposes of this section that the last known address of the person entitled to such funds is the same as the last known address of the insured according to the records of such company.

(c) Reports.—Every such life insurance company shall on or before the first day of May of each year make a report in writing to the Commissioner of Insurance of all unclaimed funds, as hereinbefore defined, held or owing by it on the thirty-first day of December next preceding. Such report shall be signed and sworn to by an officer of such company and shall set forth:

(1) In alphabetical order the full name of the insured, his last known address according to the company's records, and the policy number;
(2) The amount appearing from the company's records to be due on such policy;
(3) The date such unclaimed funds became payable;
(4) The name and last known address of each beneficiary or other person who, according to the company's records, may have an interest in such unclaimed funds; and
(5) Such other identifying information as the Commissioner of Insurance may require.

(d) Notice; Publication.—On or before the first day of September following the making of such reports under this section, the Commissioner of Insurance shall cause to be published notices entitled: "Notice of Certain Unclaimed Funds Held or Owing by Life Insurance Companies." Each such notice shall be published once a week for two successive weeks in a newspaper published in the county of this State in which is located such last known address of each such insured, or other person who, according to the company's records may have an interest in such unclaimed fund, or by posting such notice at the courthouse door of said county.

The notice shall set forth in alphabetical order the names contained in such reports of each insured whose last known address is within the county of publication together with:

(1) The amount reported due and the date it became payable,
(2) The name and last known address of each beneficiary or other person who, according to the company's records, may have an interest in such unclaimed funds, and
(3) The name and address of the company.

The notice shall also state that such unclaimed funds will be paid by the company

to persons establishing to its satisfaction before the following December 1st their right to receive the same, and that not later than December 1st such unclaimed funds still remaining will be paid to the Escheat Fund which shall thereafter be liable for the payment thereof.

It shall be not obligatory upon the Commissioner of Insurance to publish any item of less than fifty dollars ($50.00) in such notice, unless the Commissioner of Insurance deems such publication to be in the public interest. The expenses of publication shall be charged against the Escheat Fund.

(e) Payment to the Escheat Fund.—All unclaimed funds contained in the report required to be filed under this section, excepting those which have ceased to be unclaimed funds since the date of such report, shall be paid over to the Escheat Fund on or before the following December 1st.

The Commissioner of Insurance shall have the power, for cause shown, to extend for a period of not more than one year the time within which a life insurance company shall file any report and in such event the time for publication and payment required by this section shall be extended for a like period.

(f) Custody of Unclaimed Funds; Insurers Exonerated.—Upon the payment of such unclaimed funds to the Escheat Fund, the State shall assume, for the benefit of those entitled to receive the same and for the safety of the money so paid, the custody of such unclaimed funds, and the life insurance company making such payment shall immediately and thereafter be relieved of and held harmless by the State from any and all liability for any claim or claims which exist at such time with reference to such unclaimed funds or which thereafter may be made or may come into existence on account of or in respect to any such unclaimed funds.

(g) Reimbursement for Claims Paid by Insurers.—Any life insurance company which has paid to the Escheat Fund moneys deemed unclaimed funds pursuant to the provisions of this section may make payment to any person appearing to such company to be entitled thereto, and upon proof of such payment the State of North Carolina shall forthwith reimburse such company to the extent of the full amount, without interest, paid the Escheat Fund for the account of such claimant.

(h) Determination and Review of Claims.—Any person entitled to unclaimed funds paid to the Escheat Fund may file a claim at any time with the Commissioner of Insurance. The Commissioner of Insurance shall possess full and complete authority to accept or reject any such claim. If he rejects such claim or fails to act thereon within 90 days after the receipt of such claim, the claimant may make application to the Superior Court of Wake County, upon not less than 30 days' notice to the Commissioner of Insurance and the State Treasurer for an order to show cause why he should not accept and order paid such claim.

(i) Payment of Allowed Claims.—Any claim which is accepted by the Commissioner of Insurance or ordered to be paid by a court of competent jurisdiction shall be paid by the Escheat Fund.

(j) Records Required.—The State Treasurer shall keep a public record of each payment of unclaimed funds received from any life insurance company. Such record shall show in alphabetical order the name and last known address of each insured, and of each beneficiary or other person who, according to the company's records, may have an interest in such unclaimed funds, and with respect to each policy, its number, the name of the company, and the amount due. (1949, c. 682; 1957, c. 1050; 1961, c. 493; 1971, c. 1135, s. 2.)

Editor's Note.—This section was formerly § 116-23.1. It was revised and transferred to its present position by Session Laws 1971, c. 1135, s. 2, effective July 1, 1971.

§ 116A-6. Certain unclaimed bank deposits to Escheat Fund.—All bank deposits in connection with which no debits or credits have been entered within a period of five years, and where the bank is unable to locate the depositor or owner of such deposit, shall be deemed derelict property and shall be paid to the Escheat Fund and held, without liability for profit or interest, until a just claim therefor shall be preferred by the parties entitled thereto. The receipt of the Escheat

Fund of any deposit hereunder shall be and constitute a release of the bank delivering over any deposit coming within the provisions of this section from any liability therefor to the depositor or any other person. Upon receipt of such funds, the State Treasurer shall cause to be posted and kept posted for 30 days at the courthouse door of the county in which such bank is located, a notice giving the names of the persons in whose name or names such deposits were made in said bank, the amount thereof, and the last known address of such person, and the bank paying over said funds to the Escheat Fund shall furnish such information to be used in giving said notice. If any person at any time thereafter shall appear and show that he is the identical person to whom such funds are due, the State Treasurer shall pay the same in full to such person, but without any liability for interest or profits thereon. Debits of service charges and debits of intangible taxes made by banks shall not be considered debits within the meaning of this section. A bank shall be deemed to be unable to locate a depositor or owner when the present address of the depositor or owner is unknown to the bank, and the United States mail addressed to the depositor or owner at the last known address, with a return address of the sending bank on the envelope, is returned undelivered to the bank mailing the same. (1937, c. 400; 1939, c. 29; 1947, c. 614, s. 3; 1949, c. 1069; 1971, c. 1135, s. 2.)

Editor's Note.—This section was formerly § 116-24. It was revised and transferred to its present position by Session Laws 1971, c. 1135, s. 2, effective July 1, 1971.

§ **116A-6.1. Certain unclaimed Postal Savings System accounts to Escheat Fund.**—(a) Declaration of Escheat.—All Postal Savings System accounts created by the deposits of persons whose last known addresses are in this State which have not been claimed by the persons entitled thereto before May 1, 1971, are presumed to have [been] abandoned by their owners and are declared to escheat and become the property of this State.

(b) Obtaining information on accounts. — The State Treasurer shall request from the Bureau of Accounts of the United States Treasury Department records providing the following information: The names of depositors at the Post Offices of this State whose accounts are unclaimed, their last addresses as shown by the records of the Post Office Department, and the balance in each account. He shall agree to return to the Bureau of Accounts promptly all account cards showing last addresses in another state.

(c) Proceeding to adjudicate escheat.—The State Treasurer may bring proceedings in the Superior Court of Wake County to escheat unclaimed Postal Savings System accounts held by the United States Treasury Department. A single proceeding may be used to escheat as many accounts as may be available for escheat at one time.

(d) Notice.—The State Treasurer shall notify depositors whose accounts are to be escheated as follows:

(1) A letter advising that a Postal Savings System account in the name of the addressee is about to be escheated and setting forth the procedure by which a deposit may be claimed shall be mailed by first class mail to the named depositor at the last address shown on the account records

for each account to be escheated having an unpaid principal balance of more than twenty-five dollars ($25.00).

(2) A general notice of intention to escheat Postal Savings System accounts shall be published once in each of three successive weeks in one or more newspapers which combine to provide general circulation throughout this State.

(3) A special notice of intention to escheat the unclaimed Postal Savings System accounts originally deposited in each Post Office must be published once in each of three successive weeks in a newspaper published in the county in which the Post Office is located or, if there is none, in a newspaper having general circulation in the county. This notice must list the names of the owners of each unclaimed account to be escheated having a principal balance of three dollars ($3.00) or more.

(e) Collection and deposit of funds.—The Treasurer shall present a copy of each final judgment of escheat to the United States Treasury Department for payment of the principal due and the interest computed under regulations of the United States Treasury Department. The payment received shall be deposited in the Escheat Fund.

(f) Indemnification of the United States.—This State shall indemnify the United States for any losses suffered as a result of the escheat of unclaimed Postal Savings System accounts. The burden of the indemnification falls upon the Fund into which the proceeds of the escheated accounts have been paid. (1971, c. 1184, ss. 1-6.)

§ **116A-7. Other escheats.**—(a) Unpaid and unclaimed salary, wages or other compensation due to any person or persons from any person, firm, or corporation within the State are hereby declared to be escheats coming within the laws of this State, and the same shall be paid to the Escheat Fund immediately upon the expiration of two years from the end of the calendar year in which the same becomes due, provided, that this paragraph shall not apply to any person, firm or corporation employing less than 25 persons.

(b) Rebates and returns of overcharges and unclaimed meter deposits due by utility companies, which have not been paid to or claimed by the persons to whom they are due within a period of two years from the time they are due or from the time any refund was ordered by any court or by the Utilities Commission, shall be paid to the Escheat Fund.

(c) All moneys in the hands of clerks of the superior court, the State Treasurer, or any other officer or agency of the State or county, or any other depository whatsoever, as proceeds of the limitations of State banks by receivers appointed in the superior court prior to the Liquidation Act of 1927, shall be immediately turned over into the custody of the Escheat Fund: Provided, however, that nothing in this section shall be construed to require the said clerk or other officer to turn over funds of minors or other incompetents in his possession, but the custody and control of the same shall be under existing law with reference thereto.

(d) All moneys in the hands of the Treasurer of the State, represented by State warrants in favor of any person, firm, or corporation, whatsoever, which have been unclaimed for a period of five years, shall be turned over to the Escheat Fund.

(e) Unpaid and unclaimed dividends or other distributions due to any person or persons from any association organized under Subchapter IV or Subchapter V of Chapter 54 of the General Statutes are hereby declared to be escheats coming within the laws of this State, and the same shall be paid to the Escheat Fund immediately upon the expiration of three years from the time the same became due. Provided that this section shall not apply to the Agricultural Fund now on hand known as the State Warehouse Fund.

(f) Any funds derived from the liquidation of any national bank organized and operated in this State, which has heretofore or which shall hereafter become insolvent, when such insolvent bank has been fully liquidated by a receiver appointed by the Comptroller of the Currency as provided by Title 12 of United States Code

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Annotated, sections 191 and 192, or any other federal law, or has been liquidated by any agent appointed as provided by Title 12 of United States Code Annotated, section 197, which shall remain under the control of the Comptroller of the Currency and deposited with the Treasurer of the United States, or deposited elsewhere, as authorized by law, which shall be due any depositor or stockholder of this State, which for a period of 10 years after becoming due such depositor or stockholder or available for distribution to any stockholder in the liquidation of such insolvent bank, has not been paid over to such depositor or stockholder, or the legal representative of such depositor or stockholder, due to inability to locate and deliver the same to the person entitled thereto, shall be deemed derelict property and shall be paid over to the Escheat Fund by the Comptroller of the Currency, or by such agent as may have the funds in charge, to be held in protective custody by the Escheat Fund until a just claim shall be made for same by the owner thereof. Upon payment of such funds to the Escheat Fund, the Comptroller of the Currency, or any agent having such funds in charge, shall be relieved of all further liability therefor.

Upon receipt of such funds the State Treasurer shall cause to be posted, and keep posted for 30 days, at the courthouse door of the county in which such insolvent national bank did business, a notice giving the names of the persons to whom such amounts so paid over were due, the amount thereof and the last known address of such person, and the source from which such funds were received: Provided, the Comptroller of the Currency or liquidating agent of such insolvent national bank shall furnish such information to the State Treasurer when such funds are so paid over to it. If any person at any time thereafter shall appear and show that he is the identical person to whom any part of such fund, is due, the State Treasurer shall pay such part in full to such person, but without any liability for interest or profits thereon. (1939, c. 22; 1947, c. 614, s. 1; c. 621, s. 2; 1953, c. 1202, ss. 1, 2; c. 1205; 1957, c. 1051; 1971, c. 1135, s. 2.)

Editor's Note.—This section was formerly § 116-25. It was revised and transferred to its present position by Session Laws 1971, c. 1135, s. 2, effective July 1, 1971.

§ **116A-7.1. Reports required.**—A certified copy of the balance sheet or final statement for each calendar year of any person, firm or corporation having 25 or more employees in the State of North Carolina shall be filed with the North Carolina tax return of such person, firm or corporation indicating in a separate account or as a separate item in the "surplus" account the following:

(1) All unclaimed salaries, wages and other compensation from any person, firm or corporation employing 25 or more people unclaimed for two years which escheat pursuant to G.S. 116A-7;

(2) All unclaimed dividends of corporations, joint stock companies or associations unclaimed for three years which escheat pursuant to G.S. 116A-4;

(3) All rebates and returns of overcharges and unclaimed meter deposits due by utility companies unclaimed for two years which escheat pursuant to G.S. 116A-7; and

(4) Unclaimed dividends or other distributions due from any association organized under Subchapter IV or Subchapter V of Chapter 54 of the General Statutes unclaimed for three years which escheat pursuant to G.S. 116A-7. (1971, c. 1110, s. 1.)

Editor's Note. — Session Laws 1971, c. 1110, s. 2, makes the act effective July 1, 1971.

§ **116A-7.2. Penalty for failure to make reports.**—It shall be the duty of the State Treasurer and of the Attorney General to see that all reports required by the escheat provisions are properly made at the time and in the manner and form provided and to take any necessary action to secure compliance with the provisions

of Chapter 116A of the General Statutes regarding escheats. Any holder who shall fail, neglect or refuse to make and file any required report shall be liable to the State of North Carolina in the sum of three hundred dollars ($300.00) for each and every such failure, neglect or refusal, and an additional sum of ten dollars ($10.00) for each and every day of the period of default. Such penalty may be recovered by the State in an appropriate legal proceeding instituted by the State upon the relation of the State Treasurer. The proceeds of any penalty or judgment recovered in such action shall be paid to the State Treasurer to be added to the Escheat Fund and to be held by the State Treasurer absolutely and in fee simple.

The recovery of such penalty shall not relieve the defendant-holder from the duty of making and filing said reports. The State of North Carolina, upon relation of the State Treasurer, shall have the benefit of the remedy of mandamus to compel compliance with the requirements of the escheat provisions relative to the making and filing of said reports, or the State Treasurer may compel compliance by suit and/or bill for discovery. (1971, c. 1109, s. 1.)

Editor's Note. — Session Laws 1971, c. 1109, s. 2, makes the act effective July 1, 1971.

§ **116A-8. Escheat Fund.**—(a) The Escheat Fund shall be established by the State Treasurer and maintained by him as a separate fund. All funds which escheat shall be paid to the State Treasurer. Any funds previously escheated to the Escheat Fund which are claimed by their rightful owner shall be returned by the State Treasurer from the Escheat Fund.

(b) The payment of any funds described in this Chapter, or the transfer of any personal property described in this Chapter, to the Escheat Fund shall relieve any person, firm, association or corporation, or any State or federal official or agency of further liability therefor.

(c) The State Treasurer shall deposit or invest the Escheat Fund in his discretion, as provided for State funds generally. (1971, c. 1135, s. 3.)

§ **116A-9. Distribution of income of Fund.**—The income derived from the investment or deposit of the Escheat Fund shall be distributed annually on or before July 1 to the State Education Assistance Authority for loans to aid worthy and needy students who are residents of this State and are enrolled in public institutions of higher education in this State. (1971, c. 1135, s. 3.)

§ **116A-10. Terms of loans.**—Loans made by the State Education Assistance Authority shall be made under terms of other loans made by the Authority. (1971, c. 1135, s. 3.)

§ **116A-11. Statute of limitations.**—Any property, real or personal, which has escheated to the University of North Carolina or the Escheat Fund, of which the State Treasurer is custodian, shall be subject to refund for a period of seven years from the date on which it first became due and payable to the Escheat Fund. After the expiration of seven years, the University or Escheat Fund and the State Treasurer as custodian shall cease to be liable and may not pay such funds to one claiming to be the rightful owner.

No action may be brought after the expiration of the seven-year period against the State, the University, the Escheat Fund and the State Treasurer or any agents thereof for the refund of escheated property. (1971, c. 1111, s. 1.)

Editor's Note.—Session Laws 1971, c. 1111, s. 2, provides: "This act shall become effective July 1, 1971, and shall apply to all funds previously escheated to the University of North Carolina and to subsequent escheats, except that as to any funds held by the University on which the statute shall have run on July 1, 1971, the rightful owners shall have until January 1, 1972, to make their claims."

VIII. College Revolving Fund

Chapter 116. Higher Education

ARTICLE 17.

College Revolving Fund.

§ 116-168. Establishment, purpose and nature of Fund; loans. — There is hereby established a revolving fund to be known as the "College Revolving Fund." The College Revolving Fund shall be separate and distinct from other funds of the State, and shall be used only for the purpose of constructing, reconstructing, renovating, adding to and equipping dormitories and other self-liquidating buildings and facilities at institutions of higher education owned and operated by the State of North Carolina.

The College Revolving Fund shall consist of such moneys as shall from time to time be appropriated to or for it by the General Assembly of North Carolina out of the general fund or other funds of the State, of such moneys, securities or other property as may be donated, bequeathed or devised to it from any other sources, of all moneys received in payment of principal and interest on loans made from said Fund, and of all other income derived from and accretions to said Fund.

Funds accruing to the College Revolving Fund and all notes evidencing loans therefrom shall be deposited with the State Treasurer.

The Advisory Budget Commission, under such rules and regulations as it may deem advisable, not inconsistent with the provisions of this Article, may, in accordance with priorities of need as determined by the Board of Governors of the University of North Carolina, make loans from the College Revolving Fund, for the aforesaid purposes, to institutions of higher education owned and operated by the State of North Carolina; provided, however, that no such loan shall be made for any project which shall not have been previously approved by the General Assembly.

Warrants for the payment of money from the College Revolving Fund shall be issued upon the joint order of the chairman of the Advisory Budget Commission and the Board of Governors of the University of North Carolina. (1957, c. 1252, s. 1; 1971, c. 1244, s. 14.)

Editor's Note. — The 1971 amendment, effective July 1, 1972, substituted "Board of Governors of the University of North Carolina" for "North Carolina Board of Higher Education" in the fourth paragraph and for "Board of Higher Education" in the last paragraph.

§ 116-169. Terms of loans.—Loans from the College Revolving Fund shall be made upon such terms and conditions as shall be determined by the Advisory Budget Commission, provided, however, that the term of such loans shall not exceed fifty (50) years and interest charged thereon shall not exceed four per cent (4%) per annum. All such loans shall be evidenced by a promissory note or notes of the institution to which the loan is made, duly executed in the name of the institution by the chairman of the board of trustees, and attested by its secretary, pursuant to resolution duly adopted by the board of trustees of the institution. No institution to which any such loan is made shall mortgage or otherwise encumber any building or other facility constructed in whole or in part with the proceeds of such loans or encumber any of the revenue derived from such building or facility. (1957, c. 1252, s. 2.)

§ 116-170. **How loans secured and paid.**—Room rentals for dormitories, and rents, fees, or charges to be made in connection with the use of other facilities or buildings constructed with loans from the College Revolving Fund shall be fixed, and if necessary changed from time to time, pursuant to agreement between the borrowing institution and the Advisory Budget Commission at such amount or amounts as will provide for the operation and maintenance of the building or other facility and equipment and will insure the liquidation of the loan according to its terms; provided, however, that if agreement cannot be reached, the Advisory Budget Commission shall have authority to fix all such rents, fees and charges. Payments on such loans shall be made by the borrowing institution to the State Treasurer, who shall deposit same in the College Revolving Fund. The borrowing institution shall have the privilege of prepaying such loans and interest accrued thereon without penalty. (1957, c. 1252, s. 3.)

IX. Revenue Bonds for Student Housing, Student Activities, Physical Education and Recreation

A. Bonds for Student Housing

Chapter 116. Higher Education

ARTICLE 19.

Revenue Bonds for Student Housing.

§ 116-175. Definitions.—As used in this Article, the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent.

(1) The word "Board" shall mean the Board of Governors of the University of North Carolina.

(2) The word "cost" as applied to a project shall include the cost of acquisition or construction, the cost of all labor, materials and equipment, the cost of all lands, property, rights and easements acquired, financing charges, interest prior to and during construction and, if deemed advisable by the Board, for one year after completion of construction, cost of plans and specifications, surveys and estimates of cost and/or revenues, cost of engineering and legal services, and all other expenses necessary or incident to such acquisition or construction, administrative expense and such other expenses, including reasonable provision for initial operating expenses, as may be necessary or incident to the financing herein authorized. Any obligation or expense incurred by the Board prior to the issuance of bonds under the provisions of this Article in connection with any of the foregoing items of cost may be regarded as a part of such cost.

(3) The word "institution" shall mean each of the institutions enumerated in G.S. 116-2.

(4) The word "project" shall mean and shall include any one or more buildings for student housing of any size or type approved by the Board of Governors of the University of North Carolina, and the Advisory Budget Commission, and any enlargements or improvements thereof or additions thereto, so approved for the housing of students at either institution, together with the necessary land and equipment. The approval of a project by the Board of Governors of the University of North Carolina and the Advisory Budget Commission shall specify a time within which construction contracts shall be awarded. (1957, c. 1131, s. 1; 1963, cc. 421, 422; c. 448, s. 20.1; c. 1158, ss. 1, 1½; 1965, c. 31, s. 3; 1967, c. 1038; 1969, c. 297, s. 7; c. 388; c. 608, s. 1; c. 801, ss. 2-4; 1971, c. 1244, s. 16.)

Editor's Note.—

The 1971 amendment, effective July 1, 1972, substituted, in subdivision (1), "Board of Governors of the University of North Carolina" for an enumeration of the boards of trustees of the various institutions now making up the University of North Carolina. The amendment also deleted "and § 116-45" at the end of subdivision (3) and substituted "Board of Governors of the University of North Carolina" for "board of trustees, the Board of Higher Education" in the first sentence and for "Board of Higher Education" in the second sentence of subdivision (4).

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Cross References.—As to revenue bonds for services and auxiliary facilities at the University of North Carolina, see §§ 116-41.1 to 116-41.12.

As to change of name of Winston-Salem Teachers College to Winston-Salem State College and Fayetteville State Teachers College to Fayetteville State College, see § 116-45 and note thereto.

Editor's Note. — Pursuant to Session Laws 1963, c. 422, codified as § 116-45.1, "Elizabeth City State College" has been substituted for "Elizabeth City State Teachers College" in subdivision (1). Session Laws 1963, c. 448, s. 20.1, rewrote subdivision (3).

Session Laws 1963, c. 1158, s. 1, added "Asheville-Biltmore College, Charlotte College and Wilmington College" at the end of subdivision (1). Session Laws 1963, c. 1158, s. 1½, added the same words at the end of subdivision (3). However, subdivision (3) had been rewritten by Session Laws 1963, c. 448, s. 20.1, and as rewritten it includes the three colleges by referring to § 116-45, to which they were added by Session Laws 1963, c. 448, s. 21. Subdivision (3) is set out above as rewritten by Session Laws 1963, c. 448, s. 20.1.

The 1965 amendment deleted "Charlotte College" following "Asheville-Biltmore College" in subdivision (1).

The 1967 amendment substituted "North Carolina Agricultural and Technical State University" for "Agricultural and Technical College of North Carolina," substituted "Appalachian State University" for "Appalachian State Teachers College," substituted "East Carolina University" for "East Carolina College," and substituted "Western Carolina University" for "Western Carolina College" in subdivision (1).

The first 1969 amendment, effective July 1, 1969, deleted "Asheville-Biltmore College and Wilmington College" at the end of subdivision (1).

The second 1969 amendment, effective July 1, 1969, substituted "Pembroke State University" for "Pembroke State College" in subdivision (1).

The third 1969 amendment, effective July 1, 1969, substituted "North Carolina Central University" for "North Carolina College at Durham" in subdivision (1).

The fourth 1969 amendment, effective July 1, 1969, substituted "Elizabeth City State University" for "Elizabeth City State College," "Fayetteville State University" for "Fayetteville State Teachers College" and "Winston-Salem State University" for "Winston-Salem State College" in subdivision (1).

§ 116-176. Issuance of bonds.—The board is hereby authorized to issue, subject to the approval of the Advisory Budget Commission, at one time or from time to time, revenue bonds of the board for the purpose of acquiring or constructing any project or projects. The bonds of each issue shall be dated, shall mature at such time or times not exceeding 50 years from their date or dates, shall bear interest at such rate or rates not exceeding eight per centum (8%) per annum, as may be determined by the board, and may be redeemable before maturity, at the option of the board, at such price or prices and under such terms and conditions as may be fixed by the board prior to the issuance of the bonds. The board shall determine the form and manner of execution of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the State. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. Notwithstanding any of the other provisions of this Article or any recitals in any bonds issued under the provisions of this Article, all such bonds shall be deemed to be negotiable instruments under the laws of this State. The bonds may be issued in coupon or registered form or both, as the board may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The board may sell such bonds in such manner, at public or private sale, and for such price, as it may determine to be for the best interests of the board, but no sale shall be made at a price so low as to require the payment of interest on the money received therefor at more than eight per centum (8%) per annum, computed with relation to the absolute maturity or maturities of the bonds in accordance with standard tables of bond values, excluding, however, from such computation the amount of any premium to be paid on redemption of any bonds prior to maturity.

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The proceeds of the bonds of each issue shall be used solely for the purpose for which such bonds shall have been authorized and shall be disbursed in such manner and under such restrictions, if any, as the board may provide in the resolution authorizing the issuance of such bonds or in the trust agreement hereinafter mentioned securing the same. Unless otherwise provided in the authorizing resolution or in the trust agreement securing such bonds, if the proceeds of such bonds, by error of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit and shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued for the same purpose.

The resolution providing for the issuance of revenue bonds, and any trust agreement securing such bonds, may also contain such limitations upon the issuance of additional revenue bonds as the board may deem proper, and such additional bonds shall be issued under such restrictions and limitations as may be prescribed by such resolution or trust agreement.

Prior to the preparation of definitive bonds, the board may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The board may also provide for the replacement of any bonds which shall become mutilated or be destroyed or lost.

Bonds may be issued by the board under the provisions of this Article, subject to the approval of the Advisory Budget Commission, but without obtaining the consent of any other commission, board, bureau or agency of the State, and without any other proceedings or the happening of any other conditions or things than those consents, proceedings, conditions or things which are specifically required by this Article.

Revenue bonds issued under the provisions of this Article shall not be deemed to constitute a debt of the State of North Carolina or a pledge of the faith and credit of the State, but such bonds shall be payable solely from the funds herein provided therefor and a statement to that effect shall be recited on the face of the bonds.

The board may enter into or negotiate a note with an acceptable bank or trust company in lieu of issuing bonds for the financing of projects covered under this Article. The terms and conditions of any note of this nature shall be in accordance with the terms and conditions surrounding issuance of bonds. (1957, c. 1131, s. 2; 1969, c. 1158, s. 1; 1971, c. 511, s. 1.)

Editor's Note. — The 1969 amendment substituted "eight per centum (8%)" for "five per centum (5%)" in the second and last sentences of the first paragraph.

The 1971 amendment added the last paragraph.

§ 116-177. Revenues for payment of bonds; rules for use of facilities.—So long as any bonds issued under this article shall be outstanding the board shall fix, and may revise from time to time, rentals for the facilities to be furnished by any project financed under this article or for the right to use any such facilities or to receive any such services. Such rentals shall be fixed and revised so that the revenues received by the board from any project or projects, together with any other available funds, will be sufficient at all times

(1) To pay the cost of maintaining, repairing and operating such project or projects, including reserves for such purposes, and

(2) To pay when added to increased rentals from existing facilities the principal of and the interest on the bonds for the payment of which such revenues are pledged and to provide reserves therefor.

The board shall increase the rentals for the facilities furnished by any existing dormitories at any institution to provide, to the extent necessary, additional funds to liquidate in full any revenue bonds issued under this article.

The board is further authorized to make and enforce and to contract to make and enforce parietal rules that shall insure the maximum use of any project or existing facilities. (1957, c. 1131, s. 3.)

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§ 116-178. **Trust agreement.**—In the discretion of the board and subject to the approval of the Advisory Budget Commission, each or any issue of revenue bonds may be secured by a trust agreement by and between the board and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the State. The resolution authorizing the issuance of the bonds or such trust agreement may pledge to the extent necessary the revenues to be received from any project or projects at any institution and from any similar existing facilities described in § 116-175 (4) at the same institution, in excess of amounts now charged to each occupant of such project, but shall not convey or mortgage any such project or existing facilities, and may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the board in relation to the acquisition or construction of such project or projects and in relation to the maintenance, repair, operation and insurance of such project or projects and such existing facilities, the fixing and revising of rentals and other charges; and, the custody, safeguarding and application of all moneys, and for the employment of consulting engineers or architects in connection with such acquisition, construction or operation. Notwithstanding the provisions of any other law the board may carry insurance on any such project or projects in such amounts and covering such risks as it may deem advisable. It shall be lawful for any bank or trust company incorporated under the laws of the State of North Carolina which may act as depository of the proceeds of bonds or of revenues to furnish such indemnifying bonds or to pledge such securities as may be required by the board. Such resolution or trust agreement may set forth the rights and remedies of the bondholders and of the trustees, if any, and may restrict the individual right of action by bondholders. Such resolution or trust agreement may contain such other provisions in addition to the foregoing as the board may deem reasonable and proper for the security of the bondholders.

The board may provide for the payment of the proceeds of the sale of the bonds and the revenues of any project or existing facilities or part thereof to such officer, board or depository as it may designate for the custody thereof, and for the method of disbursement thereof, with such safeguards and restrictions as it may determine. All expenses incurred in carrying out the provisions of such resolution or trust agreement may be treated as a part of the cost of operation.

All pledges of revenues under the provisions of this article shall be valid and binding from the time when such pledges are made. All such revenues so pledged and thereafter received by the board shall immediately be subject to the lien of such pledges without any physical delivery thereof or further action, and the lien of such pledges shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the board, irrespective of whether such parties have notice thereof. (1957, c. 1131, s. 4.)

§ 116-179. **Sale of bonds; functions performed by executive committee.**—The board may authorize its executive committee to sell any bonds which the board has, with the approval of the Advisory Budget Commission, authorized to be issued under this article in such manner and under such limitations or conditions as the board shall prescribe and to perform such other functions under this article as the board shall determine. (1957, c. 1131, s. 5.)

§ 116-180. **Moneys received deemed trust funds.**—All moneys received pursuant to the authority of this article shall be deemed to be trust funds, to be held and applied solely as provided in this article. The resolution authorizing the issuance of bonds or the trust agreement securing such bonds shall provide that any officer to whom, or bank, trust company or fiscal agent to which, such moneys shall be paid shall act as trustee of such moneys and shall hold and apply the same for the purposes hereof, subject to such regulations as such resolution or trust agreement may provide. (1957, c. 1131, s. 6.)

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§ **116-181. Remedies.**—Any holder of revenue bonds issued under the provisions of this article or of any of the coupons appertaining thereto, and the trustee under any trust agreement, except to the extent that the rights herein given may be restricted by the resolution authorizing the issuance of such bonds or by such trust agreement, may, either at law or in equity, by suit, action, mandamus or other proceeding, protect and enforce any and all rights under the laws of the State of North Carolina or granted hereunder or under such resolution or trust agreement, and may enforce and compel the performance of all duties required by this article or by such resolution or trust agreement to be performed by the board or by any officer thereof, including the fixing, charging and collecting of fees, rentals and other charges. (1957, c. 1131, s. 7.)

§ **116-182. Refunding bonds.**—The board is hereby authorized, subject to the approval of the Advisory Budget Commission, to issue from time to time revenue refunding bonds for the purpose of refunding any revenue bonds issued by the board in connection with any project or projects at any one institution, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds. The board is further authorized, subject to the approval of the Advisory Budget Commission, to issue from time to time revenue refunding bonds for the combined purpose of

(1) Refunding any revenue bonds or revenue refunding bonds issued by the board in connection with any project or projects at any one institution, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and

(2) Paying all or any part of the cost of acquiring or constructing any additional project or projects at the same institution.

The issuance of such bonds, the maturities and other details thereof, the rights and remedies of the holders thereof, and the rights, powers, privileges, duties and obligations of the board with respect to the same, shall be governed by the foregoing provisions of this article insofar as the same may be applicable. (1957, c. 1131, s. 8.)

Cross Reference.—As to refunding bonds issued under this article, see § 116-195.

§ **116-183. Acceptance of grants; exemption from taxation.**—The board is hereby authorized, subject to the approval of the Advisory Budget Commission, to accept grants of money or materials or property of any kind for any project from a federal agency, private agency, corporation or individual, upon such terms and conditions as such federal agency, private agency, corporation or individual may impose. The bonds issued under the provisions of this article and the income therefrom shall at all times be free from taxation within the State. (1957, c. 1131, s. 9.)

§ **116-184. Article cumulative.**—This article shall be deemed to provide an additional and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of or as repealing any powers now existing under any other law, either general, special or local; provided, however, that the issuance of revenue bonds or revenue refunding bonds under the provisions of this article need not comply with the requirements of any other law applicable to the issuance of bonds. (1957, c. 1131, s. 10.)

§ **116-185. Inconsistent laws declared inapplicable.**—All general, special or local laws, or parts thereof, inconsistent herewith are hereby declared to be inapplicable to the provisions of this article. (1957, c. 1131, s. 11.)

B. Revenue Bonds for Student Housing, Student Activities, Physical Education and Recreation

Chapter 116. Higher Education

ARTICLE 21.

Revenue Bonds for Student Housing, Student Activities, Physical Education and Recreation.

§ 116-187. Purpose of Article.—The purpose of this Article is to authorize the Board of Governors of the University of North Carolina to issue revenue bonds, payable from rentals, charges, fees (including student fees) and other revenues but with no pledge of taxes or the faith and credit of the State or any agency or political subdivision thereof, to pay the cost, in whole or in part, of buildings and other facilities for the housing, health, welfare, recreation and convenience of students enrolled at the institutions hereinafter designated, housing of faculty, adult or continuing education programs and for revenue-producing parking decks or structures. (1963, c. 847, s. 1; 1967, c. 1148, s. 1; 1971, c. 1061, s. 1; c. 1244, s. 16.)

Editor's Note.—

The first 1971 amendment inserted "adult or continuing education programs" near the end of the section.

The second 1971 amendment, effective July 1, 1972, substituted "Board of Governors of the University of North Carolina" for "boards of trustees of the educational institutions designated herein" near the beginning of the section and "the institutions hereinafter designated" for "said institutions" near the end of the section.

§ 116-188. Credit and taxing power of State not pledged; statement on face of bonds.—Revenue bonds issued as in this article provided shall not be deemed to constitute a debt or liability of the State or any political subdivision thereof or a pledge of the faith and credit of the State or of any such political subdivision, but shall be payable solely from the funds herein provided therefor from revenues. All such revenue bonds shall contain on the face thereof a statement to the effect that neither the State nor the board (herein mentioned) shall be obligated to pay the same or the interest thereon except from revenues as herein defined and that neither the faith and credit nor the taxing power of the State or of any political subdivision or instrumentality thereof is pledged to the payment of the principal of or the interest on such bonds. The issuance of revenue bonds hereunder shall not directly or indirectly or contingently obligate the State or any political subdivision thereof to levy or to pledge any taxes whatsoever therefor. (1963, c. 847, s. 2.)

§ 116-189. Definitions.—As used in this Article, the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

(1) The word "board" shall mean the Board of Governors of the University of North Carolina.

(2) The word "cost," as applied to any project, shall include the cost of acquisition or construction, the cost of acquisition of all property, both real and personal, or interests therein, the cost of demolishing, removing or relocating any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved or relocated, the cost of all labor, materials, equipment and furnishings, financing charges, interest prior to and during construction and, if deemed advisable by the board, for a period not exceeding one (1) year after completion of such con-

struction, provisions for working capital, reserves for debt service and for extensions, enlargements, additions and improvements, cost of engineering, financial and legal services, plans, specifications, studies, surveys, estimates of cost and of revenues, administrative expenses, expenses necessary or incident to determining the feasibility or practicability of constructing the project, and such other expenses as may be necessary or incident to the acquisition or construction of the project, the financing of such acquisition or construction, and the placing of the project in operation. Any obligation or expense incurred by the board prior to the issuance of bonds under the provisions of this Article in connection with any of the foregoing items of cost may be regarded as a part of such cost.

(3) The term "existing facilities" shall mean buildings and facilities then existing any part of the revenues of which are pledged under the provisions of any resolution authorizing the issuance of revenue bonds hereunder to the payment of such bonds.

(4) The word "institution" shall mean each of the institutions enumerated in § 116-2.

(5) The word "project" shall mean and shall include any one or more buildings or facilities for (i) the housing, health, welfare, recreation and convenience of students, (ii) the housing of faculty, (iii) adult or continuing education, and (iv) revenue-producing parking decks or structures, of any size or type approved by the board and the Advisory Budget Commission and any enlargements, improvements or additions so approved of or to any such buildings or facilities now or hereafter existing, including, but without limiting the generality thereof, dormitories and other student, faculty and adult or continuing education housing, dining facilities, student centers, gymnasiums, field houses and other physical education and recreation buildings, structures and facilities, infirmaries and other health care buildings, structures and facilities, academic facilities for adult or continuing education, and necessary land and interests in land, furnishings, equipment and parking facilities. Any project comprising a building or buildings for student activities or adult or continuing education or any enlargement or improvement thereof or addition thereto may include, without limiting the generality thereof, facilities for services such as lounges, restrooms, lockers, offices, stores for books and supplies, snack bars, cafeterias, restaurants, laundries, cleaning, postal, banking and similar services, offices, rooms and other facilities for guests and visitors and facilities for meetings and for recreational, cultural and entertainment activities.

(6) The word "revenues" shall mean all or any part of the rents, charges, fees (including student fees) and other income revenues derived from or in connection with any project or projects and existing facilities, and may include receipts and other income derived from athletic games and public events. (1963, c. 847, s. 3; 1965, c. 31, s. 3; 1967, c. 1038; c. 1148, s. 2; 1969, c. 297, s. 8; c. 388; c. 608, s. 1; c. 801, ss. 2-4; 1971, c. 1061, s. 2; 1971, c. 1244, s. 16.)

Editor's Note.—

The 1971 amendment substituted "reserves for debt service" for "reserves for interest" in subdivision (2). In subdivision (5), the amendment substituted the language beginning with "(i) the housing" and ending with "or structures" for "student housing, student activities, physical education or recreation," inserted "faculty and adult or continuing education," and inserted "academic facilities for adult or continuing education," all in the first sentence. In the second sentence of subdivision (5), the amendment inserted "or adult or continuing education," and deleted "student" in two places preceding "services." The amendment also deleted a former last sentence, which further defined "project."

The second 1971 amendment, effective July 1, 1972, rewrote subdivision (1) and deleted "and [illegible]3-45" at the end of subdivision (4).

§ 116-190. General powers of Board of Governors.—The Board is authorized, subject to the requirements of this Article:

(1) To determine the location and character of any project or projects and to acquire, construct and provide the same and to maintain, repair and operate and enter into contracts for the management, lease, use or operation of all or any portion of any project or projects and any existing facilities;

(2) To issue revenue bonds as hereinafter provided to pay all or any part of the cost of any project or projects, and to fund or refund the same;

(3) To fix and revise from time to time and charge and collect (i) student fees from students enrolled at the institution operated by the Board, (ii) rates, fees, rents and charges for the use of and for the services furnished by all or any portion of any project or projects and (iii) admission fees for athletic games and other public events;

(4) To establish and enforce, and to agree through any resolution or trust agreement authorizing or securing bonds under this Article to make and enforce, rules and regulations for the use of and services rendered by any project or projects and any existing facilities, including parietal rules, when deemed desirable by the Board, to provide for the maximum use of any project or projects and any existing facilities;

(5) To acquire, hold, lease and dispose of real and personal property in the exercise of its powers and the performance of its duties hereunder and to lease all or any part of any project or projects and any existing facilities for such period or periods of years, not exceeding 40 years, upon such terms and conditions as the Board determines subject to the provisions of G.S. 143-341;

(6) To employ consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers and such other employees and agents as may be necessary in its judgment in connection with any project or projects and existing facilities, and to fix their compensation;

(7) To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this Article;

(8) To receive and accept from any federal, State or other public agency and any private agency, person or other entity donations, loans, grants, aid or contributions of any money, property, labor or other things of value for any project or projects, and to agree to apply and use the same in accordance with the terms and conditions under which the same are provided; and

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(9) To do all acts and things necessary or convenient to carry out the powers granted by this Article. (1963, c. 847, s. 4; 1971, c. 1244, s. 14.)

Editor's Note. — The 1971 amendment, effective July 1, 1972, substituted "Board of Governors" for "board of trustees" in the catchline.

§ 116-191. Issuance of bonds.—The board is hereby authorized to issue, subject to the approval of the Advisory Budget Commission, at one time or from time to time, revenue bonds of the board for the purpose of paying all or any part of the cost of acquiring, constructing or providing any project or projects. The bonds of each issue shall be dated, shall mature at such time or times not exceeding 50 years from their date or dates, shall bear interest at such rate or rates not exceeding eight per centum (8%) per annum, as may be determined by the board, and may be redeemable before maturity, at the option of the board, at such price or prices and under such terms and conditions as may be fixed by the board prior to the issuance of the bonds. The board shall determine the form and manner of execution of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the State. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. Notwithstanding any of the other provisions of this Article or any recitals in any bonds issued under the provisions of this Article, all such bonds shall be deemed to be negotiable instruments under the laws of this State, subject only to the provisions for registration in any resolution authorizing the issuance of such bonds or any trust agreement securing the same. The bonds may be issued in coupon or registered form or both, as the board may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The board may sell such bonds in such manner, at public or private sale, and for such price, as it may determine to be for the best interests of the board, but no sale shall be made at a price so low as to require the payment of interest on the money received therefor at more than eight per centum (8%) per annum, computed with relation to the absolute maturity or maturities of the bonds in accordance with standard tables of bond values, excluding, however, from such computation the amount of any premium to be paid on redemption of any bonds prior to maturity.

The proceeds of the bonds of each issue shall be used solely for the purpose for which such bonds shall have been authorized and shall be disbursed in such manner and under such restrictions, if any, as the board may provide in the resolution authorizing the issuance of such bonds or in the trust agreement hereinafter mentioned securing the same. Unless otherwise provided in the authorizing resolution or in the trust agreement securing such bonds, if the proceeds of such bonds, by error of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit and shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued for the same purpose.

The resolution providing for the issuance of revenue bonds, and any trust agreement securing such bonds, may also contain such limitations upon the issuance of additional revenue bonds as the board may deem proper, and such additional bonds shall be issued under such restrictions and limitations as may be prescribed by such resolution or trust agreement.

Prior to the preparation of definitive bonds, the board may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, ex-

changeable for definitive bonds when such bonds shall have been executed and are available for delivery. The board may also provide for the replacement of any bonds which shall become mutilated or be destroyed or lost.

Except as herein otherwise provided, bonds may be issued under this Article and other powers vested in the board under this Article may be exercised by the board without obtaining the consent of any department, division, commission, board, bureau or agency of the State and without any other proceedings or the happening of any other conditions or things than those proceedings, conditions or things which are specifically required by this Article.

The board may enter into or negotiate a note with an acceptable bank or trust company in lieu of issuing bonds for the financing of projects covered under this section. The terms and conditions of any note of this nature shall be in accordance with the terms and conditions surrounding issuance of bonds.

The board is hereby authorized to issue, subject to the approval of the Advisory Budget Commission, at one time or from time to time, revenue bond anticipation notes of the board in anticipation of the issuance of bonds authorized pursuant to the provisions of this Article. The principal of and the interest on such notes shall be payable solely from the proceeds of bonds or renewal notes or, in the event bond or renewal note proceeds are not available, any available revenues of the project or projects for which such bonds shall have been authorized. The notes of each issue shall be dated, shall mature at such time or times not exceeding two years from their date or dates, shall bear interest at such rate or rates not exceeding eight per centum (8%) per annum, as may be determined by the board, and may be redeemable before maturity, at the option of the board, at such price or prices and under such terms and conditions as may be fixed by the board prior to the issuance of the notes. The board shall determine the form and the manner of execution of the notes, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the notes and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the State. In case any officer, whose signature or a facsimile of whose signature shall appear on any notes or coupons, shall cease to be such officer before the delivery of such notes, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. Notwithstanding any of the other provisions of this Article or any recitals in any notes issued under the provisions of this Article, all such notes shall be deemed to be negotiable instruments under the laws of this State, subject only to the provisions for registration in any resolution authorizing the issuance of such notes or any trust agreement securing the bonds in anticipation of which such notes are being issued. The notes may be issued in coupon or registered form or both, as the board may determine, and provision may be made for the registration of any coupon notes as to principal alone and also as to both principal and interest, and for the reconversion into coupon notes of any notes registered as to both principal and interest. The board may sell such notes in such manner, at public or private sale, and for such price, as it may determine to be for the best interests of the board, but no sale shall be made at a price so low as to require the payment of interest on the money received therefor at more than eight per centum (8%) per annum, computed with relation to the absolute maturity or maturities of the bonds in accordance with standard tables of bond values, excluding, however, from such computation the amount of any premium to be paid on redemption of any notes prior to maturity.

The proceeds of the notes of each issue shall be used solely for the purpose for which the bonds in anticipation of which such notes are being issued shall have been authorized, and such note proceeds shall be disbursed in such manner and under such restrictions, if any, as the board may provide in the resolution authorizing the issuance of such notes or bonds or in the trust agreement securing such bonds.

The resolution providing for the issuance of notes, and any trust agreement securing the bonds in anticipation of which such notes are being authorized, may also contain such limitations upon the issuance of additional notes as the board may deem proper, and such additional notes shall be issued under such restrictions and limitations as may be prescribed by such resolution or trust agreement. The board may also provide for the replacement of any notes which shall become mutilated or be destroyed or lost.

Except as herein otherwise provided, notes may be issued under this Article and other powers vested in the board under this Article may be exercised by the board without obtaining the consent of any department, division, commission, board, bureau or agency of the State and without any other proceedings or the happening of any other conditions or things than those proceedings, conditions or things which are specifically required by this Article.

Unless the context shall otherwise indicate, the word "bonds," wherever used in this Article, shall be deemed and construed to include the words "bond anticipation notes." (1963, c. 847, s. 5; 1969, c. 1158, s. 2; 1971, c. 511, s. 2; 1973, c. 662.)

Editor's Note. — The 1969 amendment substituted "eight per centum (8%)" for "five per centum (5%)" in the second and last sentences of the first paragraph.

The 1973 amendment added the last five paragraphs of the section.

§ 116-192. Trust agreement; money received deemed trust funds; insurance; remedies.—In the discretion of the board and subject to the approval of the Advisory Budget Commission, any revenue bonds issued under this article may be secured by a trust agreement by and between the board and a corporate trustee (or trustees) which may be any trust company or bank having the powers of a trust company within or without the State. Such trust agreement or the resolution providing for the issuance of such bonds may pledge or assign the revenues to be received, but shall not convey or mortgage any project or projects or any existing facilities or any part thereof. Such trust agreement or resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the holders of such bonds as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the board in relation to the acquisition, construction or provision of any project or projects, the maintenance, repair, operation and insurance of any project or projects and any existing facilities, student fees and admission fees and charges and other fees, rents and charges to be fixed and collected, and the custody, safeguarding and application of all moneys. It shall be lawful for any bank or trust company incorporated under the laws of the State which may act as depositary of the proceeds of bonds or of revenues to furnish such indemnifying bonds or to pledge such securities as may be required by the board Any such trust agreement or resolution may set forth the rights and remedies of the holders of the bonds and the rights, remedies and immunities of the trustee or trustees, if any, and may restrict the individual right of action by such holders. In addition to the foregoing, any such trust agreement or resolution may contain such other provisions as the board may deem reasonable and proper for the security of such holders. All expenses incurred in carrying out the provisions of such trust agreement or resolution may be treated as a part of the cost of the project or projects for which such bonds are issued or as an expense of operation of such project or projects, as the case may be.

All moneys received pursuant to the authority of this article, whether as proceeds from the sale of bonds or as revenues, shall be deemed to be trust funds to be held and applied solely as provided in this article. The board may provide for the payment of the proceeds of the sale of the bonds and the revenues, or part thereof, to such officer, board or depositary as it may designate for the custody thereof, and for the method of disbursement thereof, with such safeguards and restrictions as it may determine. Any officer with whom, or any bank or trust

company with which, such moneys shall be deposited shall act as trustee of such moneys and shall hold and apply the same for the purposes hereof, subject to such requirements as are provided in this article and in the resolution or trust agreement authorizing or securing such bonds.

Notwithstanding the provisions of any other law the board may carry insurance on any project or projects and any existing facilities in such amounts and covering such risks as it may deem advisable.

Any holder of bonds issued under this article or of any of the coupons appertaining thereto, and the trustee or trustees under any trust agreement, except to the extent the rights herein given may be restricted by such trust agreement or the resolution authorizing the issuance of such bonds, may, either at law or in equity, by suit, action, mandamus or other proceedings, protect and enforce any and all rights under the laws of the State or granted hereunder or under such trust agreement or resolution, and may enforce and compel the performance of all duties required by this article or by such trust agreement or resolution to be performed by the board or by any officer thereof, including the fixing, charging and collecting of fees, rents and charges. (1963, c. 847, s. 6.)

§ 116-193. **Fixing fees, rents and charges; sinking fund.**—For the purpose of aiding in the acquisition, construction or provision of any project and the maintenance, repair and operation of any project or any existing facilities, the board is authorized to fix, revise from time to time, charge and collect from students enrolled at the institution under its jurisdiction such student fee or fees for such privileges and services and in such amount or amounts as the board shall determine, and to fix, revise from time to time, charge and collect other fees, rents and charges for the use of and for the services furnished or to be furnished by any project or projects and any existing facilities, or any portion thereof, and admission fees for athletic games and other public events, and to contract with any person, partnership, association or corporation for the lease, use, occupancy or operation of, or for concessions in, any project or projects and any existing facilities, or any part thereof, and to fix the terms, conditions, fees, rents and charges for any such lease, use, occupancy, operation or concession. So long as bonds issued hereunder and payable therefrom are outstanding, such fees, rents and charges shall be so fixed and adjusted, with relation to other revenues available therefor, as to provide funds pursuant to the requirements of the resolution or trust agreement authorizing or securing such bonds at least sufficient with such other revenues, if any, (i) to pay the cost of maintaining, repairing and operating any project or projects and any existing facilities any part of the revenues of which are pledged to the payment of the bonds issued for such project or projects, (ii) to pay the principal of and the interest on such bonds as the same shall become due and payable, and (iii) to create and maintain reserves for such purposes. Such fees, rents and charges shall not be subject to supervision or regulation by any other commission, board, bureau or agency of the State. A sufficient amount of the revenues, except such part thereof as may be necessary to pay such cost of maintenance, repair and operation and to provide such reserves therefor and for renewals, replacements, extensions, enlargements and improvements as may be provided for in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same, shall be set aside at such regular intervals as may be provided in such resolution or such trust agreement in a sinking fund which is hereby pledged to, and charged with, the payment of the principal of and the interest on such bonds as the same shall become due and the redemption price or the purchase price of bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time when the pledge is made, the fees, rents and charges and other revenues or other moneys so pledged and thereafter received by the board shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the

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lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the board, irrespective of whether such parties have notice thereof. Neither the resolution nor any trust agreement by which a pledge is created need be filed or recorded except in the records of the board. The use and disposition of moneys to the credit of such sinking fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of the trust agreement securing the same. (1963, c. 847, s. 7.)

§ **116-194. Vesting powers in executive committee.**—The board may authorize its executive committee to sell any bonds which the board has, with the approval of the Advisory Budget Commission, authorized to be issued under this article in such manner and under such limitations or conditions as the board shall prescribe and to perform such other functions under this article as the board shall determine. (1963, c. 847, s. 8.)

§ **116-195. Refunding bonds.**—The board is hereby authorized, subject to the approval of the Advisory Budget Commission, to issue from time to time revenue refunding bonds for the purpose of refunding any revenue bonds or revenue refunding bonds issued by the board under chapter 1289 of the 1955 Session Laws of North Carolina or under §§ 116-175 to 116-185, inclusive, of the General Statutes of North Carolina or under this article, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds. The board is further authorized, subject to the approval of the Advisory Budget Commission, to issue from time to time revenue refunding bonds for the combined purpose of (i) refunding any such revenue bonds or revenue refunding bonds issued by the board under said chapter 1289 or under said §§ 116-175 to 116-185, inclusive, General Statutes, or under this article, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and (ii) paying all or any part of the cost of acquiring or constructing any additional projects or projects.

The issuance of such refunding bonds, the maturities and other details thereof, the rights and remedies of the holders thereof, and the rights, powers, privileges, duties and obligations of the board with respect to the same, shall be governed by the foregoing provisions of this article insofar as the same may be applicable. (1963, c. 847, s. 9.)

§ **116-196. Exemption from taxation; bonds eligible for investment or deposit.**—Any bonds issued under this article, including any of such bonds constituting a part of the surplus of any bank, trust company or other corporation, and the transfer of and the income from any such bonds (including any profit made on the sale thereof and all principal, interest and redemption premiums, if any) shall at all times be exempt from all taxes or assessment, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise, which are levied or assessed by the State or by any county, political subdivision, agency or other instrumentality of the State. Bonds issued by the board under the provisions of this article are hereby made securities in which all public officers and public bodies of the State and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities which may properly and legally be deposited with and received by any State or municipal officer or any agency or political subdivision of the State for any purpose for which the deposit of bonds or obligations of the State is now or may hereafter be authorized by law. (1963, c. 847, s. 10.)

§ **116-197. Article provides additional and alternative method.**—This article shall be deemed to provide an additional and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws, including §§ 116-175 to 116-185, inclusive, of the General Statutes of North Carolina, and shall not be regarded as in derogation of or as repealing any powers now existing under any other law, either general, special or local; provided, however, that the issuance of revenue bonds or revenue refunding bonds under the provisions of this article need not comply with the requirements of any other law applicable to the issuance of bonds. (1963, c. 847, s. 11.)

§ **116-198. Inconsistent laws declared inapplicable.**—All general, special or local laws, or parts thereof, inconsistent herewith are hereby declared to be inapplicable to the provisions of this article. (1963, c. 847, s. 12.)

X. State Education Assistance Authority

Chapter 116. Higher Education

ARTICLE 23.

State Education Assistance Authority.

§ 116-201. Purpose and definitions.—(a) The purpose of this Article is to authorize a system of financial assistance, consisting of grants, loans, work-study or other employment, and other aids, for qualified residents of the State to enable them to obtain an education beyond the high school level by attending public or private educational institutions. The General Assembly has found and hereby declares that it is in the public interest and essential to the welfare and well-being of the inhabitants of the State and to the proper growth and development of the State to foster and provide financial assistance to residents of the State, properly qualified therefor, in order to help them to obtain an education beyond the high school level. The General Assembly has further found that many residents of the State who are fully qualified to enroll in appropriate educational institutions for furthering their education beyond the high school level lack the financial means and are unable, without financial assistance as authorized under this Article, to pay the cost of such education, with a consequent irreparable loss to the State of valuable talents vital to its welfare. The General Assembly has determined that the establishment of a proper system of financial assistance for such objective purpose serves a public purpose and is fully consistent with the long established policy of the State to encourage, promote and assist the education of the people of the State.

(b) As used in this Article the following terms shall have the following meanings unless the context indicates a contrary intent:

(1) "Act or undertaking" or "acts or undertakings" shall mean bonds of the Authority authorized to be issued under this Article;

(2) "Authority" shall mean the State Education Assistance Authority created by this Article or, if the Authority shall be abolished, the board, body, commission or agency succeeding to the principal functions thereof or on whom the powers given by this Article to the Authority shall be conferred by law;

(3) "Bond resolution" or "resolution" when used in relation to the issuance of bonds shall be deemed to mean either any such resolution or any trust agreement securing any bonds;

(4) "Bonds" or "revenue bonds" shall mean the bonds authorized to be issued by the Authority under this Article, which may consist of bonds, notes or other debt obligations evidencing an obligation to repay borrowed money and payable solely from revenues and other moneys of the Authority pledged therefor;

(5) "Eligible institution," with respect to loans shall have the same meaning as such term has in section 1085 of Title 20 of the United States Code;

(6) "Eligible institution," with respect to grants and work-study programs shall include all State supported institutions of higher learning and all institutions organized and administered pursuant to Chapter 115A of the General Statutes and all private institutions as defined in subdivision (8) of this subsection;

(7) "Obligations" or "student obligations" shall mean student loan notes and other debt obligations evidencing loans to students which the Au-

thority may take, acquire, buy, sell, endorse or guarantee under the provisions of this Article, and may include any direct or indirect interest in the whole or any part of any such notes or obligations;

(8) "Private institution" shall mean an institution other than a seminary, Bible school, Bible college or similar religious institution in this State that is not owned or operated by the State or by any agency or political subdivision of the State or by any combination thereof, that offers post-high school education and is accredited by the Southern Association of Colleges and Schools, or in the case of institutions that are not eligible to be considered for such accreditation, accredited in such categories and by such nationally recognized accrediting agencies as the Authority may designate;

(9) "Student" shall mean a resident of the State, in accordance with definitions of residency that may from time to time be prescribed by the Board of Governors of the University of North Carolina and published in the residency manual of said Board, who, under regulations adopted by the Authority, has enrolled or will enroll in an eligible institution and who is making suitable progress in his education in accordance with standards acceptable to the Authority and who has not received a bachelor's degree, or qualified therefor, and is otherwise classified as an undergraduate under such regulations as the Authority may promulgate; and

(10) "Student loans" shall mean loans to residents of this State to aid them in pursuing their education beyond the high school level. (1965, c. 1180, s. 1; 1971, c. 392, s. 1; c. 1244, s. 14.)

Editor's Note. — The first 1971 amendment, effective July 1, 1971, rewrote this section.

The second 1971 amendment, effective July 1, 1972, substituted "Board of Governors of the University of North Carolina" for "North Carolina Board of Higher Education" in subdivision (9) of subsection (b).

Legislative Standards Sufficient. — Sections 116-209.1 to 116-209.15, which authorize the State Education Assistance Authority to issue revenue bonds and to use the proceeds therefrom for the making of loans to "residents of this State to enable them to obtain an education in an eligible institution," as set forth in this section, when supplemented by federal legislation, provide sufficient legislative standards whereby the Authority can determine to which students the loans should be made, since it is implicit that all loans made from the bond proceeds shall be made in compliance with the standards of federal legislation which supplement the loan program of the Authority. State Educ. Assistance Authority v. Bank of Statesville, 276 N.C. 576, 174 S.E.2d 551 (1970).

"Eligible Institution".—Twenty U.S.C.A. § 1085(a) provides: "The term 'eligible institution' means (1) an institution of higher education, (2) a vocational school, or (3) with respect to students who are nationals of the United States, an institution outside the states which is comparable to an institution of higher education or to a vocational school and which has been approved by the Commissioner for purposes of this part." State Educ. Assistance Authority v. Bank of Statesville, 276 N.C. 576, 174 S.E.2d 551 (1970).

Applied in Nicholson v. State Educ. Assistance Authority, 275 N.C. 439, 168 S.E.2d 401 (1969).

Cited in State Educ. Assistance Authority v. Bank of Statesville, 276 N.C. 576, 174 S.E.2d 551 (1970).

§ 116-202. Authority may buy and sell students' obligations; undertakings of Authority limited to revenues.—In order to facilitate the vocational and college education of residents of this State and to promote the industrial and economic development of the State, the State Education Assistance Authority (hereinafter created) is hereby authorized and empowered to buy and sell obligations of students attending institutions of higher education or post-secondary business, trade, technical, and other vocational schools, which obligations represent

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loans made to such students for the purpose of obtaining training or education.

No act or undertaking of the Authority shall be deemed to constitute a debt of the State or of any political subdivision thereof or a pledge of the faith and credit of the State or of any such political subdivision, but shall be payable solely from the funds of the Authority. All such acts and undertakings shall contain on the face thereof a statement to the effect that neither the State nor the Authority shall be obligated to pay the same or the interest thereon except from revenues of the Authority and that neither the faith and credit nor the taxing power of the State or of any political subdivision thereof is pledged to the payment of the principal of or the interest on such acts and undertakings.

All expenses incurred in carrying out the provisions of this article shall be payable solely from funds provided under the provisions of this article and no liability or obligation shall be incurred by the Authority hereunder beyond the extent to which moneys shall have been provided under the provisions of this article. (1965, c. 1180, s. 1; 1967, c. 955, s. 1.)

Editor's Note. — The 1967 amendment inserted "vocational and" near the beginning of the section, substituted "attending institutions of higher education or post-secondary business, trade, technical, and other vocational schools, which obligations represent" for "at institutions of higher education representing" in the first paragraph and substituted "training or" for "an" preceding "education" at the end of that paragraph.

Stated in State Educ. Assistance Authority v. Bank of Statesville, 276 N.C. 576, 174 S.E.2d 551 (1970).

§ 116-203. Authority created as subdivision of State; appointment, terms and removal of board of directors; officers; quorum; expenses and compensation of directors.—There is hereby created and constituted a political subdivision of the State to be known as the "State Education Assistance Authority." The exercise by the Authority of the powers conferred by this article shall be deemed and held to be the performance of an essential governmental function.

The Authority shall be governed by a board of directors consisting of seven members, each of whom shall be appointed by the Governor. Two of the first members of the board appointed by the Governor shall be appointed for terms of one year, two for terms of two years, two for terms of three years, and one for a term of four years from the date of their appointment; and thereafter the members of the board shall be appointed for terms of four years. Vacancies in the membership of the board shall be filled by appointment of the Governor for the unexpired portion of the term. Members of the board shall be subject to removal from office in like manner as are State, county, town and district officers. Immediately after such appointment, the directors shall enter upon the performance of their duties. The board shall annually elect one of its members as chairman and another as vice-chairman, and shall also elect annually a secretary, or a secretary-treasurer, who may or may not be a member of the board. The chairman, or in his absence, the vice-chairman, shall preside at all meetings of the board. In the absence of both the chairman and vice-chairman, the board shall appoint a chairman pro tempore, who shall preside at such meetings. Four directors shall constitute a quorum for the transaction of the business of the Authority, and no vacancy in the membership of the board shall impair the right of a quorum to exercise all the rights and perform all the duties of the Authority. The members of the board shall be entitled to reimbursement for their expenses incurred in attendance upon the meetings of the board or while otherwise engaged in the discharge of their duties. Each member of the board shall also be paid the sum of twenty-five dollars ($25.00) per day for each day or portion thereof during which he is engaged in the performance of his duties. Such expenses and compensation shall be paid out of the treasury

of the Authority upon vouchers signed by the chairman of the board or by such other person or persons as may be designated by the board for the purpose. (1965, c. 1180, s. 1.)

Quoted in State Educ. Assistance Authority v. Bank of Statesville, 276 N.C. 576, 174 S.E.2d 551 (1970).

§ **116-204. Powers of Authority.**—The Authority is hereby authorized and empowered:

(1) To fix and revise from time to time and charge and collect fees for its acts and undertakings;

(2) To establish rules and regulations concerning its acts and undertakings;

(3) To acquire, hold and dispose of personal property in the exercise of its powers and the performance of its duties;

(4) To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this article;

(5) To employ, in its discretion, consultants, attorneys, accountants, and financial experts, superintendents, managers and such other employees and agents as may be necessary in its judgment, and to fix their compensation to be payable from funds made available to the Authority by law;

(6) To receive and accept from any federal or private agency, corporation, association or person grants to be expended in accomplishing the objectives of the Authority, and to receive and accept from the State, from any municipality, county or other political subdivision thereof and from any other source aid or contributions of either money, property, or other things of value, to be held, used and applied only for the purposes for which such grants and contributions may be made;

(7) To sue and to be sued; to have a seal and to alter the same at its pleasure; and to make and from time to time amend and repeal bylaws, rules and regulations not inconsistent with law to carry into effect the powers and purposes of the Authority;

(8) To do all other acts and things necessary or convenient to carry out the powers expressly granted in this article; provided, however, that nothing in this article shall be construed to empower the Authority to engage in the business of banking or insurance. (1965, c. 1180, s. 1.)

Quoted in State Educ. Assistance Authority v. Bank of Statesville, 276 N.C. 576, 174 S.E.2d 551 (1970).

§ **116-205. Titles to property; use of State lands; offices.**—(a) Title to any property acquired by the Authority shall be taken in the name of the Authority.

(b) The State hereby consents, subject to the approval of the Governor and Council of State, to the use of any other lands or property owned by the State, which are deemed by the Authority to be necessary for its purposes.

(c) The Authority may establish such offices in state-owned or rented structures as it deems appropriate for its purposes. (1965, c. 1180, s. 1.)

§ **116-206. Acquisition of obligations.**—With the proceeds of bonds or any other funds of the Authority available therefor, the Authority may acquire from any bank, insurance company or other lending institution, student obligations, or any interest or participation therein in such amount, at such price or

prices and upon such terms and conditions as the Authority shall determine to be in the public interest and desirable to carry out the purposes of this Article. The Authority shall take such actions and require the execution of such instruments deemed appropriate by it to permit the recovery, in connection with any such obligations or any interest or participation therein acquired by the Authority, of the amount to which the Authority may be rightfully entitled, and otherwise to enforce and protect its rights and interests thereto. (1965, c. 1180, s. 1; 1967, c. 955, s. 2; 1971, c. 392, s. 2.)

Editor's Note.— The 1971 amendment, effective July 1, 1971, rewrote this section as previously amended in 1967.

Quoted in State Educ. Assistance Authority v. Bank of Statesville, 276 N.C. 576, 171 S.E.2d 551 (1970).

§ 116-207. Terms of acquisitions.—The Authority shall prescribe the terms, conditions and limitations upon which it will acquire a contingent or direct interest in any obligation and such terms, conditions and limitations shall include, but without limiting the generality hereof, the interest rate payable upon such obligations, the maturities thereof, the terms for payment of principal and interest, applicable life or other insurance which may be required in connection with any such obligation and who shall pay the premiums thereon, the safekeeping of assets pledged to secure any such undertaking, and any and all matters in connection with the foregoing as will protect the assets of the Authority. (1965, c. 1180, s. 1.)

§ 116-208. Construction of article.—The provisions of this article shall be liberally construed to the end that its beneficial purposes may be effectuated. (1965, c. 1180, s. 1.)

§ 116-209. Trust fund established; use and investment of fund; duties of State Treasurer.—The appropriation made to the Authority under this article shall be used exclusively for the purpose of acquiring contingent or vested rights in obligations which it may acquire under this article; such appropriations, payments, revenue and interest as well as other income received in connection with such obligations is hereby established as a trust fund. Such fund shall be used for the purposes of the Authority other than maintenance and operation.

The maintenance and operating expenses of the Authority shall be paid from funds specifically appropriated for such purposes. No part of the trust fund established under this section shall be expended for such purposes.

The Authority shall be the trustee of the trust fund hereby created and shall have full power to invest and reinvest such funds, subject to the limitation that no investment shall be made, except upon the exercise of bona fide discretion, in securities which, at the time of making the investment, are, by statute, permitted for the investment of reserves of domestic life insurance companies. Subject to such limitation, the Authority shall have full power to hold, purchase, sell, assign, transfer or dispose of, any of the securities or investments in which any of the funds created herein have been invested, as well as of the proceeds of such investments and any moneys belonging to such funds.

In lieu of exercising all of the powers hereunder with respect to the investment and reinvestment of the several funds, the Authority may delegate such powers to the State Treasurer, in which event the State Treasurer shall exercise the investment powers as prescribed herein.

The State Treasurer shall be the custodian of the assets of the Authority. All payments from the accounts thereof shall be made by him issued upon vouchers signed by such persons as are designated by the Authority. A duly attested copy of a resolution of the Authority designating such persons and bearing on its face the specimen signatures of such persons shall be filed with the State Treasurer as his authority for issuing warrants upon such vouchers. (1965, c. 1180, s. 1.)

Editor's Note. — The appropriation referred to in this section is authorized to be made from the Contingency and Emergency Fund by s. 2 of the act adding this article.

Taxpayer Has No Standing to Seek Injunction Restraining Acts of Authority.—Since issuance of tax-exempt revenue bonds by the State Education Assistance Authority for purpose of financing loans to college students does not pledge the credit of the State or of any political subdivision thereof, a taxpayer can suffer no injury from the issuance of the bonds and has no interest therein except his general interest as a member of the public in good government pursuant to the North Carolina Constitution, and, consequently, a taxpayer has no standing to seek an injunction restraining actions of the Authority and its fiscal agent relating to the issuance of the bonds and the expenditure of the proceeds thereof. Nicholson v. State Educ. Assistance Authority, 275 N.C. 439, 168 S.E.2d 401 (1969).

Allegation Insufficient Basis for Injunctive Relief.—The allegation that, by expressing its intent to issue a further series of bonds, the Authority has indicated that "additional tax funds will be expended" unless enjoined is not sufficient basis for injunctive relief, since this allegation is consistent with a contemplated use of funds appropriated from tax revenues for "lawful functions" of the Authority, such as the payment of salaries and expenses of employees engaged in the performance of functions authorized by this section. Nicholson v. State Educ. Assistance Authority, 275 N.C. 439, 168 S.E.2d 401 (1969).

Quoted in State Educ. Assistance Authority v. Bank of Statesville, 276 N.C. 576, 174 S.E.2d 551 (1970).

§ **116-209.1. Provisions in conflict.**—Any of the foregoing provisions of this act which shall be in conflict with the provisions hereinbelow set forth shall be repealed to the extent of such conflict. (1967, c. 1177.)

§ **116-209.2. Reserves.**—The Authority may provide in any resolution authorizing the issuance of bonds or any trust agreement securing any bonds that proceeds of such bonds may be used to establish reserve accounts in any trustee or banking institution or otherwise as determined by the Authority, for securing such bonds and facilitating the making of student loans and acquiring student obligations, to provide for the payment of interest on such bonds for such period of time as the Authority shall determine, and for such other purposes as will facilitate the issuance of bonds at rates of interest and upon terms deemed reasonable by the Authority and will, in the Authority's judgment, facilitate carrying out the purposes of this Article. (1967, c. 1177; 1971, c. 392, s. 3.)

Editor's Note. — The 1971 amendment, effective July 1, 1971, rewrote this section.

§ **116-209.3. Additional powers.**—The Authority is authorized to develop and administer programs and perform all functions necessary or convenient to promote and facilitate the making and insuring of student loans and providing such other student loan assistance and services as the Authority shall deem necessary or desirable for carrying out the purposes of this act and for qualifying for loans, grants, insurance and other benefits and assistance under any program of the United States now or hereafter authorized fostering student loans. There shall be established and maintained a trust fund which shall be designated "State Education Assistance Authority Loan Fund" (the "Loan Fund") which may be used by the Authority in making student loans directly or through agents or independent contractors, insuring student loans, acquiring, purchasing, endorsing or guaranteeing promissory notes, contracts, obligations or other legal instruments evidencing student loans made by banks, educational institutions, nonprofit corporations or other lenders, and for defraying the expenses of operation and administration of the Authority for which other funds are not available to the Authority. There shall be deposited to the credit of such Loan Fund the proceeds (exclusive of accrued interest) derived from the sale of its revenue bonds by the Authority and any other moneys made available to the Authority for the making or insuring of student loans or the purchase of obligations. There shall also be deposited to the credit of the Loan Fund surplus funds from time to time transferred by the Authority from the sinking fund. Such Loan Fund shall be maintained as a revolving fund.

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In lieu of or in addition to the Loan Fund, the Authority may provide in any resolution authorizing the issuance of bonds or any trust agreement securing such bonds that any other trust funds or accounts may be established as may be deemed necessary or convenient for securing the bonds or for making student loans, acquiring obligations or otherwise carrying out its other powers under this Article, and there may be deposited to the credit of any such fund or account proceeds of bonds or other money available to the Authority for the purposes to be served by such fund or account. (1967, c. 1177; 1971, c. 392, s. 4.)

Editor's Note. — The 1971 amendment, effective July 1, 1971, added the last paragraph.

Sections 116-209.1 to 116-209.15 do not unconstitutionally authorize use of public funds in violation of § 3, Art. V, or of § 17, Art. I, or of § 7, Art. I, of the Constitution of North Carolina, or of § 1 of the Fourteenth Amendment to the Constitution of the United States. State Educ. Assistance Authority v. Bank of Statesville, 276 N.C. 576, 174 S.E.2d 551 (1970).

It is expected that a student loan will inure to the private benefit of the person who obtains it. It is equally true that the education provided throughout the entire school system is intended to inure to the benefit of the individual who obtains it. However, the fact that the individual obtains a private benefit cannot be considered sufficient ground to defeat the execution of the paramount public purpose of encouraging education. State Educ. Assistance Authority v. Bank of Statesville, 276 N.C. 576, 174 S.E.2d 551 (1970).

Whether the student loan program is wise or unwise is for determination by the General Assembly. State Educ. Assistance Authority v. Bank of Statesville, 276 N.C. 576, 174 S.E.2d 551 (1970).

Assistance of Federal Government Is Prerequisite to Functioning of Student Loan Program.—The assistance of the federal government and coordination with its program are prerequisite to the functioning of the North Carolina student loan program. State Educ. Assistance Authority v. Bank of Statesville, 276 N.C. 576, 174 S.E.2d 551 (1970).

And Only Loans Qualifying for Assistance under Federal Statutes May Be Made.—The only student loans the Authority is authorized to make or purchase are student loans which qualify under the federal statutes for federal assistance in respect of interest subsidy and guaranty. State Educ. Assistance Authority v. Bank of Statesville, 276 N.C. 576, 174 S.E.2d 151 (1970).

It is implicit in the provisions of §§ 116-209.1 to 116-209.15 that the General Assembly contemplated and intended that no loans would be made from the proceeds from the sale of tax-exempt revenue bonds except student loans made in compliance with the standards prescribed by federal legislation and therefore qualified for assistance. Seemingly, the General Assembly realized that its specification of more precise standards for "student loans" might impede the functioning of the Authority and render it unable to qualify from time to time for the federal assistance upon which its program depended. State Educ. Assistance Authority v. Bank of Statesville, 276 N.C. 576, 174 S.E.2d 551 (1970).

The provisions of this section and § 116-209.6 disclose that the General Assembly is well aware of the federal, State and private programs of low-interest insured loans to students in institutions of higher education and other post-secondary schools. State Educ. Assistance Authority v. Bank of Statesville, 276 N.C. 576, 174 S.E.2d 551 (1970).

Borrowers Unable to Make Payment until Completion of Education.—Persons who obtain "student loans" are unable to make payment on account of interest or principal until completion of their education by graduation or otherwise. State Educ. Assistance Authority v. Bank of Statesville, 276 N.C. 576, 174 S.E.2d 551 (1970).

§ **116-209.4. Authority to issue bonds.**—The Authority is hereby authorized to provide for the issuance, at one time or from time to time, of revenue bonds of the Authority in an aggregate principal amount outstanding at any time of not exceeding fifty million dollars ($50,000,000.00). The bonds shall be designated, subject to such additions or changes as the Authority deems advisable, "State Education Assistance Authority Revenue Bonds, Series .....," inserting in the blank space a letter identifying the particular series of bonds.

The principal of and the interest on such bonds shall be payable solely from the funds herein provided for such payment. The bonds of each issue shall be dated, shall bear interest at such rate or rates, shall mature at such time or times not exceeding 30 years from their date or dates, as may be determined by the Authority, and may be made redeemable before maturity, at the option of the Authority, at such price or prices and under such terms and conditions as may be fixed by the Authority prior to the issuance of the bonds. Prior to the preparation of definitive bonds, the Authority may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The Authority may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost. The Authority shall determine the form and the manner of execution of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the State. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. The Authority may also provide for the authentication of the bonds by a fiscal agent. The bonds may be issued in coupon or in registered form, or both, as the Authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest, and for the interchange of registered and coupon bonds. The Authority may sell such bonds in such manner, either at public or private sale, and for such price as it may determine will best effectuate the purposes of this act.

The Authority is authorized to provide in any resolution authorizing the issuance of bonds for pledging or assigning as security for its revenue bonds, subject to any prior pledge or assignment, and for deposit to the credit of the sinking fund, any or all of its income, receipts, funds or other assets, exclusive of bond proceeds and other funds required to be deposited to the credit of the Loan Fund, of whatsoever kind from time to time acquired or owned by the Authority, including all donations, grants and other money or property made available to it, payments received on student loans, such as principal, interest and penalties, if any, premiums on student loan insurance, fees, charges and other income derived from services rendered or otherwise, proceeds of property or insurance, earnings and profits on investments of funds and from sales, purchases, endorsements or guarantees of obligations, as defined in G.S. 116-201 hereof, and other securities and instruments, contract rights, any funds, rights, insurance or other benefits acquired pursuant to any federal law or contract to the extent not in conflict therewith, money recovered through the enforcement of any remedies or rights, and any other funds or things of value which in the determination of the Authority may enhance the marketability of its revenue bonds. Money in the sinking fund shall be disbursed in such manner and under such restrictions as the Authority may provide in the resolution authorizing the issuance of such bonds. Unless otherwise provided in the bond resolution, the revenue bonds at any time issued hereunder shall be entitled to payment from the sinking fund without preference or priority of the bonds first issued. Bonds may be issued under the provisions of this act without obtaining, except as otherwise expressly provided in this act, the consent of any department, division, commission, board, body, bureau or agency of the State, and without any other proceedings or the happening of any conditions or things other than those proceedings, conditions or things which are specifically required by this act and the provisions of the resolution authorizing the issuance of such bonds.

The Authority is authorized to provide by resolution for the issuance of revenue refunding bonds of the Authority for the purpose of refunding any bonds then outstanding which shall have been issued under the provisions of this Article, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and, if deemed advisable by the Authority, for making student loans or acquiring obligations under this Article. The issuance of such revenue refunding bonds, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties and obligations of the Authority in respect to the same shall be governed by the provisions of this Article which relate to the issuance of revenue bonds insofar as such provisions may be appropriate. Revenue refunding bonds issued under this section may be sold or exchanged for outstanding bonds issued under this Article and, if sold, the proceeds thereof may be applied, in addition to any other authorized purposes, to the purchase, redemption or payment of such outstanding bonds. (1967, c. 1177; 1971, c. 392, ss. 5-7.)

Editor's Note. — The 1971 amendment, effective July 1, 1971, substituted "fifty million dollars" for "twelve and one-half million dollars" in the first sentence, substituted "30 years" for "20 years" in the second sentence of the second paragraph, added the present third and fourth sentences in that paragraph and added the last paragraph.

Constitutionality.—The people of North Carolina constitute the State's greatest resource. Where bond proceeds are to be used solely to make loans to meritorious North Carolinians of slender means and thereby minimize the number of qualified persons whose education or training is interrupted or abandoned for lack of funds, the bond proceeds are used for a public purpose when used to make such loans. State Educ. Assistance Authority v. Bank of Statesville, 276 N.C. 576, 174 S.E.2d 551 (1970).

See also notes to §§ 116-209.2, 116-209.3.

§ 116-209.5. Bond resolution.—The resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the Authority in relation to the purchase or sale of obligations, the making of student loans, the insurance of student loans, the fees, charges and premiums to be fixed and collected, the terms and conditions for the issuance of additional bonds and the custody, safeguarding and application of all moneys. It shall be lawful for any bank or trust company incorporated under the laws of the State which may act as depositary of the proceeds of bonds, revenues or other money hereunder to furnish such indemnifying bonds or to pledge such securities as may be required by the Authority. Any such resolution may set forth the rights and remedies of the bondholders and may restrict the individual right of action by bondholders. All expenses incurred in carrying out the provisions of such resolution may be treated as a part of the cost of administering this act and may be payable, together with other expenses of operation and administration under this act incurred by the Authority, from the Loan Fund.

In the discretion of the Authority, any bonds issued under the provisions of this Article may be secured by a trust agreement by and between the Authority and a corporate trustee, which may be any trust company or bank having powers of a trust company within or without the State. Such trust agreement or the resolution providing for the issuance of such bonds may pledge or assign the fees, penalties, charges, proceeds from collections, grants, subsidies, donations and other funds and revenues to be received therefor. Such trust agreement or resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the holders of such bonds as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the Authority in relation to student loans, the acquisition of obligations, insurance, the fees, penalties and other charges to be fixed and collected, the sale or purchase of obligations or any part thereof, or other property, the terms and conditions for the issuance of additional bonds, and the custody, safeguarding and application of all moneys. It shall be lawful for any bank

or trust company incorporated under the laws of the State which may act as depositary of the proceeds of bonds, revenues or other money hereunder to furnish such indemnifying bonds or to pledge such securities as may be required by the Authority. Any such trust agreement or resolution may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders. In addition to the foregoing, any such trust agreement or resolution may contain such other provisions as the Authority may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of such trust agreement or resolution may be treated as a part of the cost of carrying out the purposes for which such bonds shall be issued.

In addition to all other powers granted to the Authority by this Article, the Authority is hereby authorized to pledge to the payment of the principal of and the interest on any bonds under the provisions of this Article any moneys received or to be received by it under any appropriation made to it by the General Assembly, unless the appropriation is restricted by the General Assembly to specific purposes of the Authority or such pledge is prohibited by the law making such appropriation; provided, however, that nothing herein shall be construed to obligate the General Assembly to make any such appropriation. (1967, c. 1177; 1971, c. 392, s. 8.)

Editor's Note. — The 1971 amendment, effective July 1, 1971, added the second and third paragraphs.

§ **116-209.6. Revenues.**—The Authority is authorized to fix and collect fees, charges, interest and premiums for making or insuring student loans, purchasing, endorsing or guaranteeing obligations and any other services performed under this act. The Authority is further authorized to contract with the United States of America or any agency or officer thereof and with any person, partnership, association, banking institution or other corporation respecting the carrying out of the Authority's functions under this act. The Authority shall at all times endeavor to fix and collect such fees, charges, receipts, premiums and other income so as to have available in the sinking fund at all times an amount which, together with any other funds made available therefor, shall be sufficient to pay the principal of and the interest on such bonds as the same shall become due and payable and to create reserves for such purposes. Money in the sinking fund, except such part thereof as may be necessary to provide such reserves for the bonds as may be provided for in the resolution authorizing the issuance of such bonds, shall be set aside in the sinking fund at such regular intervals as may be provided in such resolution and is hereby pledged to, and charged with, the payment of the principal of and the interest on such bonds as the same shall become due and the redemption price or the purchase price of bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time when the pledge is made. The fees, charges, receipts, proceeds and other revenues and moneys so pledged and thereafter received by the Authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Authority, irrespective of whether such parties have notice thereof. The resolution by which a pledge is created need not be filed or recorded except in the records of the Authority. The use and disposition of money to the credit of the sinking fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds. Any such resolution may, in the discretion of the Authority, provide for the transfer of surplus money in the sinking fund to the credit of the Loan Fund. Except as may otherwise be provided in such resolution, such sinking fund shall be a fund for all such bonds without distinction or priority of one over another. (1967, c. 1177.)

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§ **116-209.7. Trust funds.**—Notwithstanding any other provisions of law to the contrary, all money received pursuant to the authority of the act, whether as proceeds from the sale of bonds, sale of property or insurance, or as payments of student loans, whether principal, interest or penalties, if any, thereon, or as insurance premiums, or from the purchase or sale of obligations, or as any other receipts or revenues derived hereunder, shall be deemed to be trust funds to be held and applied solely as provided in this act. The resolution authorizing the bonds of any issue may provide that any of such money may be temporarily invested pending the disbursement thereof and shall provide that any officer with whom, or any bank or trust company with which, such money shall be deposited shall act as trustee of such money and shall hold and apply the same for the purposes hereof, subject to such regulations as this act and such resolution may provide. (1967, c. 1177.)

§ **116-209.8. Remedies.**—Any holder of bonds issued under the provisions of this act or any of the coupons appertaining thereto, except to the extent the rights herein given may be restricted by such resolution authorizing the issuance of such bonds, may either at law or in equity, by suit, action, mandamus or other proceeding, protect and enforce any and all rights under the laws of the State or granted hereunder or under such resolution authorizing the issuance of such bonds, or under any contract executed by the Authority pursuant to this act, and may enforce and compel the performance of all duties required by this act or by such resolution to be performed by the Authority or by any officer thereof, including the fixing, charging and collecting of fees, charges and premiums and the collection of principal, interest and penalties, if any, on student loans or obligations evidencing such loans. The Authority may provide in any trust agreement securing the bonds that any such rights may be enforced for and on behalf of the holders of bonds by the trustee under such trust agreement. (1967, c. 1177; 1971, c. 392, c. 9.)

Editor's Note. — The 1971 amendment, effective July 1, 1971, added the last sentence.

§ **116-209.9. Negotiability of bonds.**—All bonds issued under the provisions of this Article shall have and are hereby declared to have all the qualities and incidents, including negotiability, of investment securities under the Uniform Commercial Code of the State but no provision of such Code respecting the filing of a financial statement to perfect a security interest shall be deemed applicable to or necessary for any security interest created in connection with the issuance of any such bonds. (1967, c. 1177; 1971, c. 392, s. 10.)

Editor's Note. — The 1971 amendment, effective July 1, 1971, rewrote this section.

Whether tax-exempt revenue bonds issued under § 116-209.4 should be approved for investment by fiduciaries and for deposit "for any purpose for which the deposit of bonds or obligations of the State is now or may hereafter be authorized by law," as set forth in this section, is for determination by the General Assembly. Whether the purchase of these bonds is wise or unwise is for determination by the investor. State Educ. Assistance Authority v. Bank of Statesville, 276 N.C. 576, 174 S.E.2d 551 (1970).

§ **116-209.10. Bonds eligible for investment.**—Bonds issued by the Authority under the provisions of this act are hereby made securities in which all public officers and public bodies of the State and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities which may properly and legally be deposited with and received by any State or municipal officer or any agency or political subdivision of the State for any purpose for which the deposit of bonds or obligations of the State is now or may hereafter be authorized by law. (1967, c. 1177.)

§ **116-209.11. Additional pledge.** — Notwithstanding any other provision to the contrary herein, the Authority is hereby authorized to pledge as security for any bonds issued hereunder any contract between the Authority and the United States of America under which the United States agrees to make funds available to the Authority for any of the purposes of this act, to insure or guarantee the payment of interest or principal on student loans, or otherwise to aid in promoting or facilitating student loans. (1967, c. 1177.)

§ **116-209.12. Credit of State not pledged.**—Bonds issued under the provisions of this act shall not be deemed to constitute a debt, liability or obligation of the State or of any political subdivision thereof or a pledge of the faith and credit of the State or of any such political subdivision, but shall be payable solely from the revenues and other funds provided therefor. Each bond issued under this act shall contain on the face thereof a statement to the effect that the Authority shall not be obligated to pay the same nor the interest thereon except from the revenues, proceeds and other funds pledged therefor and that neither the faith and credit nor the taxing power of the State or of any political subdivision thereof is pledged to the payment of the principal of or the interest on such bonds. Expenses incurred by the Authority in carrying out the provisions of this act may be made payable from funds provided pursuant to this act and no liability or obligation shall be incurred by the Authority hereunder beyond the extent to which moneys shall have been so provided. (1967, c. 1177.)

Taxpayer Has No Standing to Seek Injunction Restraining Acts of Authority.—See same catchline in note under § 116-209.

Quoted in State Educ. Assistance Authority v. Bank of Statesville, 276 N.C. 576, 174 S.E.2d 551 (1970).

§ **116-209.13. Tax exemption.** — The exercise of the powers granted by this act in all respects will be for the benefit of the people of the State, for their well being and prosperity and for the improvement of their social and economic conditions, and the Authority shall not be required to pay any taxes on any property owned by the Authority under the provisions of this act or upon the income therefrom, and the bonds issued under the provisions of this act, their transfer and the income therefrom (including any profit made on the sale thereof), shall at all times be free from taxation by the State or any local unit or political subdivision or other instrumentality of the State, excepting inheritance or gift taxes. (1967, c. 1177.)

Constitutionality.—The provisions of this section that exempt student loan revenue bonds from taxation by the State or by any of its subdivisions do not contravene N.C. Const., Art. V, § 5, which provides that property belonging to the State or to municipal corporations shall be exempt from taxation, the enumerated properties in Art. V, § 5, not including bonds issued by the State or any State agency, since the tax-exempt provisions make possible a more favorable sale of the revenue bonds and thereby contribute substantially to the accomplishment of the public purpose for which they are issued. State Educ. Assistance Authority v. Bank of Statesville, 276 N.C. 576, 174 S.E.2d 551 (1970).

§ **116-209.14. Annual reports.**—The Authority shall, promptly following the close of each fiscal year, submit an annual report of its activities for the preceding year to the Governor and the General Assembly. Each such report shall set forth a complete operating and financial statement covering the operations of the Authority during such year. The Authority shall cause an audit of its books and accounts to be made at least once in each year by the State Auditor or by certified public accountants. (1967, c. 1177.)

§ **116-209.15. Merger of trust fund.**—The Authority may merge into the Loan Fund the trust fund established pursuant to § 116-209 hereof and may transfer from such trust fund to the credit of the Loan Fund all money, investments and other assets and resources credited to such trust fund, for application and use in accordance with the provisions of this act pertaining to the Loan Fund, including the power to pay expenses of the Authority from the Loan Fund to the extent that other funds are not available therefor. (1967, c. 1177.)

Applied in Nicholson v. State Educ. Assistance Authority, 275 N.C. 439, 168 S.E.2d 401 (1969).

§ **116-209.16. Other powers; criteria.**—The Authority, in addition to all the powers more specifically vested hereunder, shall have all other powers necessary or convenient to carry out and effectuate the purposes and provisions of this Article, including the power to receive, administer and comply with the conditions and requirements respecting any gift, grant or donation of any property or money, any insurance or guarantee of any student loan or student obligations, any loans, advances, contributions, interest subsidies or any other assistance from any federal or State agency or other entity; to pledge or assign any money, charges, fees or other revenues and any proceeds derived by the Authority from any student loans, obligations, sales of property, insurance or other sources; to borrow money and to issue in evidence thereof revenue bonds of the Authority for the purposes of this Article and to issue revenue refunding bonds; to conduct studies and surveys respecting the needs for financial assistance of residents of the State respecting education beyond the high school level.

In carrying out the powers vested and the responsibilities imposed under this Article, the Authority shall be guided by and shall observe the following criteria and requirements, the determination of the Authority as to compliance with such criteria and requirements being final and conclusive:

(1) Any student loan, grant or other assistance provided by the Authority to any student shall be necessary to enable the student to pursue his education above the high school level; and

(2) No student loan, grant or other financial assistance shall be provided to any student by the Authority except in conformity with the provisions of this Article and to carry out the purposes hereof.

The Authority shall by rules and regulations prescribe other conditions, criteria and requirements that it shall deem necessary or desirable for providing financial assistance to students under this Article upon a fair and equitable basis, giving due regard to the needs and qualifications of the students and to the purposes of this Article. (1971, c. 392, s. 11.)

Editor's Note.—Section 12, c. 392, Session Laws 1971, makes the act effective July 1, 1971.

§ **116-209.17. Establishment of student assistance program.** — The Authority is authorized, in addition to all other powers and duties vested or imposed under this Article, to establish and administer a statewide student assistance

program for the purpose of removing, insofar as may be possible, the financial barriers to education beyond the high school level for needy North Carolina undergraduate students at public or private institutions in this State. This objective shall be accomplished through a comprehensive program under which the financial ability of each student and of his family, under standards prescribed by the Authority, is measured against the reasonable costs, as determined by the Authority, of the educational program which the student proposes to pursue. Needs of students for financial assistance shall, to the extent of the availability of funds from federal, State, institutional or other sources, be met through work-study programs, loans, grants and out-of-term employment, or a combination of these forms of assistance. No student shall be eligible to receive benefits under this student assistance program for a total of more than 45 months of full-time, post-high school level education. (1971, c. 392, s. 11.)

Editor's Note.—Section 12, c. 392, Session Laws 1971, makes the act effective July 1, 1971.

§ 116-209.18. Powers of Authority to administer student assistance program.—In order to accomplish the purposes of this Article the Authority is authorized:

(1) To receive from the general fund or other sources such sums as the General Assembly may authorize from time to time for such purposes, and to receive from any other donor, public or private, such sums as may be made available, and to cause such sums to be disbursed for the purposes for which they have been provided;

(2) To establish such criteria as the Authority shall deem necessary or desirable for determining the need of students for grants under this Article, as opposed to other forms of financial assistance, and for deciding who shall receive grants;

(3) To prescribe the form and to regulate the submission of applications for assistance and to prescribe the procedures for considering and approving such applications;

(4) To provide for the making of, and to make, grants under this Article under such terms and conditions as the Authority shall deem advisable;

(5) To encourage educational institutions to increase the resources available for financial assistance; to prescribe such formulas for institutional maintenance of effort as the Authority may determine to be consistent with the purposes of this Article;

(6) To provide by contract for the administration of all or any portion of the student assistance program by nonprofit organizations or corporations, pursuant to regulations and criteria established by the Authority;

(7) To serve, on designation by the Governor, or as may otherwise be provided by federal law, as the State agency to administer such statewide programs of student assistance as shall be established from time to time under federal law; and

(8) To have all other powers and authority necessary to carry out the purposes of the student assistance program, including, without limitation, all the powers given to the Authority by G.S. 116-204 and by other provisions of the General Statutes. (1971, c. 392, s. 11.)

Editor's Note.—Section 12, c. 392, Session Laws 1971, makes the act effective July 1, 1971.

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§ **116-209.19. Grants to students.**—The Authority is authorized to make grants to students enrolled or to be enrolled in eligible institutions in North Carolina out of such money as from time to time may be appropriated by the State or as may otherwise be available to the Authority for such grants. The Authority, subject to the provisions of this Article and any applicable appropriation act, shall adopt rules, regulations and procedures for determining the needs of the respective students for grants and for the purpose of making such grants. The amount of any grant made by the Authority to any student, whether enrolled or to be enrolled in any private institution or any tax-supported public institution, shall be determined by the Authority upon the basis of substantially similar standards and guides that shall be set forth in the Authority's rules, regulations and procedures; provided, however, that grants made in any fiscal year to students enrolled or to be enrolled in private institutions may be increased to compensate, in whole or in part, for the average annual State appropriated tuition subsidy for such fiscal year, determined as provided herein. The average annual State appropriated subsidy for each fiscal year shall be determined by the Advisory Budget Commission, after consultation with the State Budget Officer, Board of Governors of the University of North Carolina and the Authority, for each of the two categories of tax-supported institutions, being (i) institutions, presently 16, that provide education of the collegiate grade and grant baccalaureate degrees and (ii) institutions, such as community colleges and technical institutes created and existing under Chapter 115A of the General Statutes. The average annual State appropriated subsidy for each of such two categories of institutions shall mean the amount of the total appropriations of the State for the respective fiscal years under the current operations budgets, pursuant to the Executive Budget Act reasonably allocable to undergraduate students enrolled in such institutions exclusive of the Division of Health Affairs of the University of North Carolina and the North Carolina School of the Arts for all institutions in such category, all as shall be determined by the Advisory Budget Commission after consultation as above provided, divided by the budgeted number of North Carolina undergraduate students to be enrolled in such fiscal year.

The Authority in determining the needs of students for grants, may give consideration to, among other factors, the amount of other financial assistance that may be available to such students such as nonrepayable awards under the educational opportunity grant program and Health Professions Education Assistance Act. (1971, c. 392, s. 11; c. 1244, s. 14.)

Editor's Note. — Section 12, c. 392, Session Laws 1971, makes the act effective July 1, 1971.

The 1971 amendment, effective July 1, 1972, substituted "Board of Governors of the University of North Carolina" for "Board of Higher Education" in the fourth sentence.

§ **116-209.20. Public purpose.**—No expenditure of funds under this Article shall be made for any purpose other than a public purpose. (1971, c. 392, s. 11.)

Editor's Note.—Section 12, c. 392, Session Laws 1971, makes the act effective July 1, 1971.

§ **116-209.21. Cooperation of the Board of Governors of the University of North Carolina.**—The Board of Governors of the University of North Carolina shall provide the secretariat for the Authority. The Executive Director of the Authority, who shall be its principal executive officer, shall be elected by the Board of Directors of the Authority on nomination of the President of the University of North Carolina. (1971, c. 392, s. 11; c. 1244, s. 14.)

Editor's Note. — Section 12, c. 392, Session Laws 1971, makes the act effective July 1, 1971.

The 1971 amendment, effective July 1, 1972, substituted "Board of Governors of the University of North Carolina" for "Board of Higher Education" and "President of the University of North Carolina" for "Director of the Board of Higher Education."

§ **116-209.22. Constitutional construction.**—The provisions of this Article are severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions. (1971, c. 392, s. 11.)

Editor's Note.—Section 12, c. 392, Session Laws 1971, makes the act effective July 1, 1971.

§ **116-209.23. Inconsistent laws inapplicable.**—Insofar as the provisions of this Article are inconsistent with the provisions of any general or special laws, or parts thereof, the provisions of this Article shall be controlling, except that no provision of the 1971 amendments to this Article shall apply to scholarships for children of war veterans as set forth in Article 4 of Chapter 165, as amended. (1971, c. 392, s. 11.)

XI. Community College System

A. Community College Act of 1957

ARTICLE 3, G.S. § 116-47 TO § 116-62.

Editor's Note.—The Community College Act of 1963 superseded the Community Act of 1957. The 1957 Act, however, was not repealed and it is still a part of the General Statutes of North Carolina. It is codified as Article 3 of G.S. Ch. 116.

Today no institution in the Community College System operates under the 1957 act and none can be established or be operated pursuant to it. G.S. § 116-48 (a section of the 1957 act) provides that no additional community college shall be organized or operated pursuant to the provisions of the 1957 act and G.S. § 115A-4 (a section of the 1963 act) provides that new institutions shall be established only in accordance with the 1963 act.

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B. Chapter 115A. Community Colleges, Technical Institutes, and Industrial Education Centers

Article 1.

General Provisions for State Administration.

§ 115A-1. Statement of purpose.—The purposes of this chapter are to provide for the establishment, organization, and administration of a system of educational institutions throughout the State offering courses of instruction in one or more of the general areas of two-year college parallel, technical, vocational, and adult education programs, to serve as a legislative charter for such institutions, and to authorize the levying of local taxes and the issuing of local bonds for the support thereof. The major purpose of each and every institution operating under the provisions of this chapter, shall be and shall continue to be the offering of vocational and technical education and training, and of basic, high school level, academic education needed in order to profit from vocational and technical education, for students who are high school graduates or who are beyond the compulsory age limit of the public school system and who have left the public schools. (1963, c. 448, s. 23; 1969, c. 562, s. 1.)

Editor's Note. — The 1969 amendment added the second sentence.

§ 115A-2. Definitions.—As used in this chapter:

(1) The term "State Board of Education" refers to the State Board of Education as established and described in article IX, § 8, of the Constitution of North Carolina.

(2) The term "community college" is defined as an educational institution operating under the provisions of this chapter and dedicated primarily to the educational needs of the particular area for which established, and

a. Which offers the freshman and sophomore courses of a college of arts and sciences,

b. Which shall offer organized curricula for the training of technicians,

c. Which shall offer vocational, trade, and technical specialty courses and programs, and

d. Which shall offer courses in general adult education.

(3) The term "industrial education center" is defined as an educational institution operating under the provisions of this chapter and dedicated primarily to the educational needs of the area for which established, and

a. Which offers vocational, trade, and technical specialty courses and programs, and

b. Which shall offer courses in general adult education.

(4) The term "institution" refers to a community college, a technical institute, or an industrial education center.

(5) The term "State Board of Education" refers to the State Board of Education as established and described in Article IX, § 8, of the Constitution of North Carolina.

(6) The "tax levying authority" of an institution is the board of commissioners of the county or all of the boards of commissioners of the counties, jointly, which constitute the administrative area of the institution.

(7) The term "technical institute" is defined as an educational institution operating under the provisions of this chapter and dedicated primarily to the educational needs of the particular area for which established, and

a. Which offers organized curricula for the training of technicians,

b. Which shall offer vocational, trade, and technical specialty courses and programs, and

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c. Which shall offer courses in general adult education.

(8) The term "regional institution" means an institution which serves four or more counties which have been assigned as of July 1, 1973 to the institution by the Department of Community Colleges for purposes of conducting adult education classes. (1963, c. 448, s. 23; 1969, c. 562, s. 2; 1973, c. 590, s. 1.)

Editor's Note. — The 1969 amendment substituted "shall" for "may" throughout subdivisions (2), (3) and (7).

The 1973 amendment, effective for budget years beginning July 1, 1973, added subdivision (8).

§ 115A-3. State Board of Education to establish department to administer system of educational institutions.—The State Board of Education is authorized to establish and organize a department to provide State-level administration, under the direction of the Board, of a system of community colleges, technical institutes, and industrial education centers, separate from the free public school system of the State. The Board shall have authority to adopt and administer all policies, regulations, and standards which it may deem necessary for the establishment and operation of the department. The personnel of the department shall be governed by the same policies as the personnel of the other departments of the Board of Education and shall be subject to the provisions contained in article 2, chapter 143 of the General Statutes; except the position of the director or chief administrative officer of the department shall be exempt from the provisions of the State Personnel Act, and the compensation of this position shall be fixed by the Governor, upon the recommendation of the State Board of Education, subject to approval by the Advisory Budget Commission.

The State Board of Education shall appoint an Advisory Council consisting of at least seven members to advise the Board on matters relating to personnel, curricula, finance, articulation, and other matters concerning institutional programs and coordination with other educational institutions of the State. Two members of the Advisory Council shall be members of the North Carolina Board of Higher Education or of its professional staff, and two members of the Advisory Council shall be members of the faculties or administrative staffs of institutions of higher education in this State. (1963, c. 448, s. 23.)

State Government Reorganization.—The Department of Community Colleges was transferred to the Department of Public Education by § 143A-43, enacted by Session Laws 1971, c. 864.

§ 115A-4. Establishment and transfer of institutions.—After the effective date of this chapter, the establishment of all community colleges, technical institutes, and industrial education centers shall be subject to the prior approval of the State Board of Education and each institution shall be established only in accordance with the provisions of this chapter and the regulations, standards, and procedures adopted by the Board not inconsistent herewith. In no case, however, shall approval be granted by the Board for the establishment of an institution until it has been demonstrated to the satisfaction of the Board that a genuine educational need exists within a proposed administrative area, that existing public and private post-high-school institutions in the area will not meet the need, that adequate local financial support for the institution will be provided, that public schools in the area will not be affected adversely by the local financial support required for the institution, and that funds sufficient to provide State financial support of the institution are available.

In approving the request of the board of trustees of an industrial education center for the establishment of an educational program, it shall be a matter of general policy of the State Board of Education to require that it be demonstrated to the satisfaction of the State Board of Education that the educational and occupational needs the proposed program is designed to meet are not already met by similar educational programs maintaining standards acceptable to the State Board of Education in other public or private schools in the administrative area of the industrial education center.

In approving the request of the board of trustees of an industrial education center for the establishment of an educational program, it shall be a matter of general policy of the State Board of Education to require that it be demonstrated to the satisfaction of the State Board of Education that the industrial education center is not assuming the continuing responsibility for providing for individual manufacturing firms or corporations the routine training required for regular operator training in the factories of the firm or corporation made necessary because of turnover of personnel.

The State Board of Education and the North Carolina Board of Higher Education shall co-operate in providing for the orderly transferal of the administration and operation of College of the Albemarle, Mecklenburg College, and all other public community colleges designated by the General Assembly, from the provisions of article 3, chapter 116, of the General Statutes of North Carolina to the provisions of this chapter. Such transferal shall be accomplished as provided by this chapter and regulations and procedures adopted jointly by the two boards. The two boards shall also provide by regulation for the transfer, without consideration, of title to all property, funds, and unexpended appropriations of the colleges held heretofore by the boards of trustees of the colleges from such Boards to the respective boards of trustees established pursuant to this chapter.

Provision shall be made for the orderly transferal of the administration and operation of all industrial education centers from local boards of education of the State public school system to boards of trustees established pursuant to this chapter for the purpose of administering and operating such centers as provided in this chapter. Such transferal shall be accomplished as provided by this chapter and regulations and procedures adopted by the State Board of Education. Upon transferal of each industrial education center the local board of education previously operating the center shall transfer, without consideration, title to the property, funds, and unexpended appropriations heretofore held by such board for the center to the board of trustees established for the center pursuant to this chapter. Provided, if an industrial education center ceases to operate as an institution, as defined in this chapter, title to real property transferred to a board of trustees from the local board of education, previously operating the center, shall revert to such board of education, and said board of trustees shall thereupon, by proper instrument, convey the same to such board of education. Where plans are being made to relocate an existing industrial education center by moving it from buildings on or adjacent to a senior high school campus, the State Board of Education may designate the local board of education now operating the industrial education center as the board of trustees for the continued operation of the industrial education center until such time as the industrial education center is so relocated; and the board of trustees provided for in this chapter may be appointed to develop the new or reorganized institution but shall not have control of the existing industrial education center until it is transferred to the new site.

The approval of any new institution, or the conversion of any existing institution into a new type of institution, or the expenditures of any State funds for any capital improvements at existing institutions shall be subject to the prior approval of the Governor and the Advisory Budget Commission. The expenditure of State funds at any institution herein authorized to be approved by the Board shall be subject to the terms of the Executive Budget Act unless specifically otherwise provided in this chapter. (1963, c. 448, s. 23; 1965, c. 1028.)

Editor's Note. — The 1965 amendment added the last paragraph.

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§ 115A-5. Administration of institutions by State Board of Education; extension courses; personnel exempt from State Personnel Act; contracting, etc., for establishment and operation of extension units of community college system; use of existing public school facilities.—The State Board of Education may adopt and execute such policies, regulations and standards concerning the establishment and operation of institutions as the Board may deem necessary to insure the quality of educational programs, to promote the systematic meeting of educational needs of the State, and to provide for the equitable distribution of State and federal funds to the several institutions.

In order to make instruction as accessible as possible to all citizens, the teaching of curricular courses and of noncurricular extension courses at convenient locations away from institution campuses as well as on campuses is authorized and shall be encouraged. A pro rata portion of the established regular tuition rate charged a full-time student shall be charged a part-time student taking any curriculum course. In lieu of any tuition charge, the State Board of Education shall establish a uniform registration fee, or a schedule of uniform registration fees, to be charged students enrolling in extension courses for which instruction is financed primarily from State funds; provided, however, that the State Board of Education may provide by general and uniform regulations for waiver of tuition and registration fees for training courses for volunteer firemen, local law-enforcement officers, and prison inmates.

The State Board of Education shall establish standards and scales for salaries and allotments paid from funds administered by the Board, and all employees of the institutions shall be exempt from the provisions of the State Personnel Act. The Board shall have authority with respect to individual institutions: to approve sites, buildings, building plans, budgets; to approve the selection of the chief administrative officer; to establish and administer standards for professional personnel, curricula, admissions, and graduation; to regulate the awarding of degrees, diplomas, and certificates; to establish and regulate student tuition and fees and financial accounting procedures.

The State Board of Education is authorized to enter into agreements with county and city boards of education, upon approval by the Governor and the Advisory Budget Commission, for the establishment and operation of extension units of the community college system. The State Board is further authorized to provide the financial support for matching capital outlay and for operating and equipping extension units as provided in this Chapter for other institutions, subject to available funds.

On petition of the board of education of the school administrative unit in which an institution is proposed to be established, the State Board of Education may approve the utilization by such proposed institution of existing public school facilities, if the Board finds:

(1) That an adequate portion of such facilities can be devoted to the exclusive use of the institution, and

(2) That such utilization will be consistent with sound educational considerations. (1963, c. 448, s. 23; 1967, c. 652; 1969, c. 1294; 1973, c. 768.)

Editor's Note.—

The 1973 amendment added the second paragraph.

§ 115A-6. Withdrawal of State support.—The State Board of Education may withdraw or withhold State financial and administrative support of any institutions subject to the provisions of this chapter in the event that:

(1) The required local financial support of an institution is not provided;

(2) Sufficient State funds are not available;

(3) The officials of an institution refuse or are unable to maintain prescribed standards of administration or instruction; or

(4) Local educational needs for such an institution cease to exist. (1963, c. 448, s. 23.)

ARTICLE 2.

Local Administration.

§ 115A-7. Each institution to have board of trustees; selection of trustees.—(a) Each community college and technical institute established or operated pursuant to this chapter shall be governed by a board of trustees consisting of twelve members, who shall be selected by the following agencies.

Group One—four trustees, elected by the board of education of the public school administrative unit located in the administrative area of the institution. If there are two or more public school administrative units, whether city or county units, or both, located within the administrative area, the trustees shall be elected jointly by all of the boards of education of those units, each board having one vote in the election of each trustee, except as provided in § 115A-37.

Group Two—four trustees, elected by the board of commissioners of the county in which the institution is located. Provided, however, if the administrative area of the institution is composed of two or more counties, the trustees shall be elected jointly by the boards of commissioners of all those counties, each board having one vote in the election of each trustee.

Group Three—four trustees, appointed by the Governor.

(b) Each industrial education center established or operated pursuant to this chapter shall be governed by a board of trustees consisting of eight members, four of whom shall be selected by the agencies provided for Group One in subsection (a) above and four by the agencies provided for Group Two above.

(c) All trustees shall be residents of the administrative area of the institution for which they are selected or of counties contiguous thereto.

(d) Vacancies occurring in any group for whatever reason shall be filled for the remainder of the unexpired term by the agency or agencies authorized to select trustees of that group and in the manner in which regular selections are made. Should the selection of a trustee not be made by the agency or agencies having the authority to do so within sixty (60) days after the date on which a vacancy occurs, whether by creation or expiration of a term or for any other reason, the Governor shall fill the vacancy by appointment for the remainder of the unexpired term. (1963, c. 448, s. 23.)

§ 115A-8. Term of office of trustees.—Trustees shall serve for terms of eight (8) years, except that initially:

(1) For all industrial education centers and technical institutes and for those community colleges for which boards of trustees first shall be established pursuant to the provisions of this chapter, terms of the members of each board shall be so set by the selecting agencies that the term of a member in each group in § 115A-7 (a), shall expire on June 30 of every other year, the shortest term to expire on June 30 of the next odd-numbered year following the date the Board of trustees is established. Thereafter, all terms shall be eight (8) years and shall commence on July 1.

(2) For those community colleges which hereafter shall be operated pursuant to this chapter but for which the boards of trustees have previously been appointed pursuant to the provisions of article 3, chapter 116, of the General Statutes, all trustees previously appointed and currently serving shall continue to serve until the expiration of their respective terms.

a. As the terms of the four trustees previously appointed by the city and/or county boards of education expire, their successors shall be selected by the agencies specified for Group One in § 115A-7, so that a term shall expire on June 30 of every other year, the shortest term to expire on June 30 of the next odd-numbered year following the date the successors are appointed. Thereafter, all terms shall be eight (8) years and shall commence July 1.

b. As the terms of the four trustees previously appointed by the governing board of the municipality and/or the board of commissioners expire, their successors shall be selected by the agencies specified for Group Two in § 115A-7, so that a term shall expire on June 30 of every other year, the shortest term to expire on June 30 of the next odd-numbered year following the date the successors are appointed. Thereafter, all terms shall be eight (8) years and shall commence on July 1.

c. As the terms of the four trustees previously appointed by the Governor expire, their successors shall be appointed by the Governor, so that a term shall expire on June 30 of every other year, the shortest term to expire on June 30 of the next odd-numbered year following the date the successors are appointed. Thereafter, all terms shall be eight (8) years and shall commence on July 1. (1963, c. 448, s. 23.)

§ 115A-9. Board of trustees a body corporate; corporate name and powers; title to property.—The board of trustees of each institution shall be a body corporate with all powers usually conferred upon such bodies to enable it to acquire, hold, and transfer real and personal property, to enter into contracts, to institute and defend legal actions and suits, and to exercise such other rights and privileges as may be necessary for the management and administration of the institution and for carrying out the provisions and purposes of this chapter. The official title of each board shall be "The Trustees of ....." (filling in the name of the institution) and such title shall be the official corporate name of the institution.

The several boards of trustees shall hold title to all real and personal property donated to their respective institutions or purchased with funds provided by the tax levying authorities of their respective institutions. Title to equipment furnished by the State shall remain in the State Board of Education. In the event that an institution shall cease to operate, title to all real and personal property donated to the institution or purchased with funds provided by the tax levying authorities, except as provided for in § 115A-4, shall vest in the county in which the institution is located, unless the terms of the deed of gift in the case of donated property provides otherwise, or unless in the case of two or more counties forming a joint institution the contract provided for in § 115-37 provides otherwise. (1963, c. 448, s. 23.)

§ 115A-9.1. Sale, exchange or lease of property.—When in the opinion of the board of trustees of any institution organized under the provisions of this chapter, the use of any property, real or personal, owned or held by said board of trustees is unnecessary or undesirable for the purposes of said institution, the board of trustees, subject to prior approval of the State Board of Education, may sell, exchange, or lease such property in the same manner as is provided by law for the sale, exchange, or lease of school property by county or city boards of education. The proceeds of any such sale or lease shall be used for capital outlay purposes. (1969, c. 338.)

§ 115A-10. Trustees declared to be commissioners for special purpose.—All trustees of institutions in this chapter are declared to be commissioners for special purposes within the meaning of article XIV, § 7, of the Constitution of North Carolina. (1963, c. 448, s. 23.)

§ 115A-11. Compensation of trustees.—Trustees shall receive no compensation for their services but shall receive reimbursement, according to regulations adopted by the State Board of Education, for cost of travel, meals, and lodging while performing their official duties. (1963, c. 448, s. 23.)

§ 115A-12. Organization of boards; meetings. — At the first meeting after its selection, each board of trustees shall elect from its membership a chairman, who shall preside at all board meetings, and a vice-chairman, who shall preside in the absence of the chairman. The trustees shall also elect a secretary, who need not be a trustee, to keep the minutes of all board meetings. All three officers of the board shall be elected for a period of one year but shall be eligible for re-election by the board.

Each board of trustees shall meet as often as may be necessary for the conduct of the business of the institution but shall meet at least once every three (3) months. Meetings may be called by the chairman of the board or by the chief administrative officer of the institution. (1963, c. 448, s. 23.)

§ 115A-13. Removal of trustees.—Should the State Board of Education have sufficient evidence that any member of the board of trustees of an institution is not capable of discharging, or is not discharging, the duties of his office as required by law or lawful regulation, or is guilty of immoral or disreputable conduct, the Board shall notify the chairman of such Board of Trustees, unless the chairman is the offending member, in which case the other members of the board shall be notified. Upon receipt of such notice there shall be a meeting of the board of trustees for the purpose of investigating the charges, at which meeting a representative of the State Board of Education may appear to present evidence of the charges. The allegedly offending member shall be given proper and adequate notice of the meeting and the findings of the other members of the board shall be recorded, along with the action taken, in the minutes of the board of trustees. If the charges are, by an affirmative vote of two-thirds of the members of the board, found to be true, the board of trustees shall declare the office of the offending member to be vacant.

Nothing in this section shall be construed to limit the authority of a board of trustees to hold a hearing as provided herein upon evidence known or presented to it. (1963, c. 448, s. 23.)

§ 115A-14. Powers and duties of trustees.—The trustees of each institution shall constitute the local administrative board of such institution, with such powers and duties as are provided in this chapter and are delegated to it by the State Board of Education. Included in the powers granted to the trustees are the following:

(1) To elect a president or chief administrative officer of the institution for such term and under such conditions as the trustees may fix, such election to be subject to the approval of the State Board of Education.

(2) To elect or employ all other personnel of the institution upon nomination by the president or chief administrative officer, subject to standards established by the State Board of Education.

(3) To purchase any land, easement, or right-of-way which shall be necessary for the proper operation of the institution, when such site has been approved by the State Board of Education, and, if necessary, to ac-

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quire land by condemnation in the same manner and under the same procedures as provided in article 2, chapter 40 of the General Statutes. For the purpose of condemnation, the determination by the trustees as to the location and amount of land to be taken and the necessity therefor shall be conclusive.

(4) To apply to the standards and requirements for admission and graduation of students and other standards established by the State Board of Education.

(5) To receive and accept private donations, gifts, bequests, and the like and to apply them or invest any of them and apply the proceeds for purposes and upon the terms which the donor may prescribe and which are consistent with the provisions of this chapter and the regulations of the State Board of Education.

(6) To provide all or part of the instructional services for the institution by contracting with other public or private educational institutions of the State, according to regulations and standards adopted by the State Board of Education.

(7) To perform such other acts and do such other things as may be necessary or proper for the exercise of the foregoing specific powers, including the adoption and enforcement of all reasonable rules, regulations, and bylaws for the government and operation of the institution under this chapter and for the discipline of students. (1963, c. 448, s. 23.)

§ 115A-14.1. Traffic regulations; fines and penalties.—(a) All of the provisions of Chapter 20 of the General Statutes relating to the use of highways of the State of North Carolina and the operation of motor vehicles thereon are hereby made applicable to the streets, roads, alleys and driveways on the campuses of all institutions in the North Carolina Community College System. Any person violating any of the provisions of Chapter 20 of the General Statutes as herein made applicable, in or on the streets, roads, alleys and driveways on the campuses of institutions in the North Carolina Community College System shall, upon conviction thereof, be punished as therein prescribed and as provided by Chapter 20 of the General Statutes relating to motor vehicles. Nothing herein contained shall be construed as in any way interfering with the ownership and control of such streets, roads, alleys and driveways on the campuses of institutions in the system as is now vested by law in the trustees of each individual institution in the North Carolina Community College System.

(b) The trustees are authorized and empowered to make additional rules and regulations and to adopt additional ordinances with respect to the use of the streets, roads, alleys and driveways and to establish parking areas on or off the campuses not inconsistent with the provisions of Chapter 20 of the General Statutes of North Carolina. Upon investigation, the trustees may determine and fix speed limits on streets, roads, alleys, and driveways subject to such rules, regulations, and ordinances, lower than those provided in G.S. 20-141. The trustees may make reasonable provisions for the towing or removal of unattended vehicles found to be in violation of rules, regulations and ordinances. All rules, regulations and ordinances adopted pursuant to the authority of this section shall be recorded in the proceedings of the trustees, printed, and copies of such rules, regulations and ordinances shall be filed in the office of the Secretary of State of North Carolina. Any person violating any such rules, regulations, or ordinances shall, upon conviction thereof in a legally constituted court of the State of North Carolina, be guilty of a misdemeanor, and shall be punishable by a fine of not exceeding fifty dollars ($50.00) or imprisonment for not exceeding 30 days or, in the discretion of the court, both such fine and imprisonment.

(c) The trustees may by rules, regulations, or ordinances provide for a system of registration of all motor vehicles where the owner or operator does park on the campus or keeps said vehicle on the campus. The trustees shall cause to be posted at appropriate places on campus notice to the public of applicable parking and traffic rules, regulations, and ordinances governing the campus over which it has jurisdiction. The trustees may by rules, regulations, or ordinances establish or cause to have established a system of citations that may be issued to owners or operators of motor vehicles who violate established rules, regulations, or ordinances. The trustees shall provide for the administration of said system of citations; establish or cause to be established a system of fines to be levied for the violation of established rules, regulations and ordinances; and enforce or cause to be enforced the collection of said fines. The fine for each offense shall not exceed five dollars ($5.00), which funds shall be retained in the institution and expended in the discretion of the trustees. The trustees shall be empowered to exercise the right to prohibit repeated violators of such rules, regulations, or ordinances from parking on the campus. (1971, c. 795, ss. 1-3.)

§ 115A-15. State Retirement System for Teachers and State Employees; social security.—Solely for the purpose of applying the provisions of chapter 135 of the General Statutes of North Carolina, "Retirement System for Teachers and State Employees, Social Security," the institutions of this chapter are included within the definition of the term "Public School," and the institutional employees are included within the definition of the term "Teacher," as these terms are defined in § 135-1. (1963, c. 448, s. 23.)

§ 115A-16. Workmen's Compensation Act applicable to institutional employees.—The provisions of chapter 97 of the General Statutes of North Carolina, the Workmen's Compensation Act, shall apply to all institutional employees. The State Board of Education shall make the necessary arrangements to carry out those provisions of chapter 97 which are applicable to employees whose wages are paid in whole or in part from State funds. The State shall be liable for compensation, based upon the average weekly wage as defined in the Act, of an employee regardless of the portion of such wage paid from other than State Funds.

The board of trustees of each institution shall be liable for workmen's compensation for employees whose salaries or wages are paid by the board entirely from local public or special funds. Each board of trustees is authorized to purchase insurance to cover such compensation liability and to include the cost of insurance in the annual budget of the institution.

The provisions of this section shall not apply to any person, firm or corporation making voluntary contributions to institutions for any purpose, and such a person, firm, or corporation shall not be liable for the payment of any sum of money under the provisions of this section. (1963, c. 448, s. 23.)

§ 115A-17. Waiver of governmental immunity from liability for negligence of agents and employees of institutions; liability insurance.—The board of trustees of any institution, by obtaining liability insurance as provided in § 115A-35, is authorized to waive its governmental immunity from liability for the death or injury of person or for property damage caused by the negligence or tort of any agent or employee of the board of trustees when the agent or employee is acting within the scope of his authority or the course of his employment. All automobiles, buses, trucks, or other motor vehicles intended primarily for use on the public roads and highways which are the property of a board of trustees shall be insured at all times with liability insurance as provided in § 115A-35. Governmental immunity shall be deemed to have been waived by the act of obtaining liability insurance, but only to the extent that the board is indemnified for the negligence or torts of its agents and employees and only as to claims arising after the procurement of liability insurance and while such insurance is in force. (1963, c. 448, s. 23.)

§ 115A-17.1. Purchase of annuity or retirement income contracts for employees.—Notwithstanding any provision of law relating to salaries and/or salary schedules for the pay of faculty members, administrative officers, or any other employees, of community colleges, technical institutes or industrial education centers, the board of trustees of any of the above institutions may authorize the business officer or agent of same to enter into annual contracts with any of the above officers, agents and employees which provide for a reduction in salary below the total established compensation or salary schedule for a term of one (1) year. The financial officer or agent shall use the funds derived from the reduction in the salary of the officer, agent or employee to purchase a nonforfeitable annuity or retirement income contract for the benefit of said officer, agent or employee. An officer, agent or employee who has agreed to a salary reduction for this purpose shall not have the right to receive the amount of the salary reduction in cash or in any other way except the annuity or retirement income contract. Funds used for the purchase of an annuity or retirement income contract shall not be in lieu of any amount earned by the officer, agent or employee before his election for a salary reduction has become effective. The agreement for salary reductions referred to herein shall be effected under any necessary regulations and procedures adopted by the State Board of Education and on forms prepared by the State Board of Education. Notwithstanding any other provisions of this section or law, the amount by which the salary of any officer, agent or employee is reduced pursuant to this section shall not be excluded, but shall be included, in computing and making payroll deductions for social security and retirement system purposes, and in computing and providing matching funds for retirement system purposes. (1965, c. 366.)

Article 3.

Financial Support.

§ 115A-18. State financial support of institutions. — (a) The State Board of Education shall be responsible for providing from sources available to the Board funds to meet the financial needs of institutions, as determined by policies and regulations of the Board, for the following budget items:

(1) Capital outlay: Furniture and equipment for administrative and instructional purposes, new library books, and other items of capital outlay approved by the Board. Provided, the State Board of Education may, on an equal matching fund basis from appropriations made by the State for the purpose, grant funds to individual community colleges and technical institutes, including those converted from industrial education centers, for the purchase, construction and remodeling of institutional buildings determined by the State Board of Education to be necessary for the instructional programs or administration of such institutions. For the purpose of determining amounts of matching State funds, local funds shall include local expenditures made prior to the enactment of this chapter or prior to an institution becoming a community college or technical institute pursuant to the provisions of this chapter, when such expenditures were made for the purchase, construction, and remodeling of institutional buildings subsequently determined by the State Board of Education to be necessary as herein specified, and provided such local expenditures have not previously been used as the basis for obtaining matching State funds under the provisions of this chapter or any other laws of the State.

(2) Current expenses:

a. General administration:

1. Salaries and travel of trustees and administrative staff.
2. Cost of bonding institutional employees for the protection of State funds and property.
3. Office expenses.
4. Other costs of general administration approved by the Board.

b. Instructional services:
   1. Salaries and travel of instructional staff and clerical employees.
   2. Instructional supplies and materials.
   3. Commencement expenses.
   4. Other costs of instructional services approved by the Board.

c. Maintenance of plant: Maintenance and replacement of furniture and equipment furnished by the State.

d. Fixed charges:
   1. Employer's contributions to social security and State retirement funds for the portion of institutional employees' salaries paid from State and federal funds.
   2. Cost of workmen's compensation for institutional employees paid in whole or in part from State or federal funds.

e. Auxiliary services:
   1. Operation of libraries, including salaries and travel of staff; replacement of books; and costs of supplies, materials, periodicals, and newspapers.
   2. Other costs of auxiliary services approved by the Board.

(3) Additional support for regional institutions: Matching funds to be used with local funds to meet the financial needs of the regional institutions for the items set out in G.S. 115A-19. The amount of matching funds to be provided by the State under this section shall be determined as follows: The population of the county in which the regional institution is located shall be called the "local factor"; the combined populations of all the other counties served by the institution shall be called the "State factor." When the budget for the items listed in G.S. 115A-19 has been approved under the procedures set out in G.S. 115A-27, the county in which the regional institution is located shall provide a percentage to be determined by dividing the local factor by the sum of the local factor and the State factor. The State shall provide a percentage of the necessary funds to meet this budget, the percentage to be determined by dividing the State factor by the sum of the local factor and the State factor. If the local county provides less than its proportionate share, the amount of State funds provided shall be reduced by the same proportion as were the county funds.

Wherever the word "population" is used in this subdivision, it shall mean the population of the particular area in accordance with the latest U.S. census as may be updated by the State Department of Administration or the U.S. Bureau of Census.

(b) The State Board of Education is authorized to accept, receive, use, or reallocate to the institutions any federal funds or aids that have been or may be appropriated by the government of the United States for the encouragement and improvement of any phase of the programs of the institutions. (1963, c. 448, s. 23; 1973, c. 590, ss. 2, 3; c. 637, s. 1.)

§ 115A-19. Local financial support of institutions.—(a) The tax levying authority of each institution shall be responsible for providing, in accordance with the provisions of § 115A-20 or § 115A-21, as appropriate, adequate funds to meet the financial needs of the institutions for the following budget items:

(1) Capital outlay: Acquisition of land; erection of all buildings; alterations and additions to buildings; purchase of automobiles, buses, trucks, and other motor vehicles; purchase of all equipment necessary for the maintenance of buildings and grounds and operation of plant; and purchase of all furniture and equipment not provided for administrative and instructional purposes.

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(2) Current expenses:

a. General administration:

1. Cost of bonding institutional employees for the protection of local funds and property.
2. Cost of auditing local funds.
3. Cost of elections held in accordance with §§ 115A-20 and 115A-22.
4. Legal fees incurred in connection with local administration and operation of the institution.

b. Operation of plant:

1. Wages of janitors, maids, and watchmen.
2. Cost of fuel, water, power, and telephones.
3. Cost of janitorial supplies and materials.
4. Cost of operation of motor vehicles.
5. Any other expenses necessary for plant operation.

c. Maintenance of plant:

1. Cost of maintenance and repairs of buildings and grounds.
2. Salaries of maintenance and repair employees.
3. Maintenance and replacement of furniture and equipment provided from local funds.
4. Maintenance of plant heating, electrical, and plumbing equipment.
5. Maintenance of all other equipment, including motor vehicles, provided by local funds.
6. Any other expenses necessary for maintenance of plant.

d. Fixed charges:

1. Rental of land, buildings, and equipment.
2. Cost of insurance for buildings, contents, motor vehicles, workmen's compensation for institutional employees paid from local funds, and other necessary insurance.
3. Employer's contribution to retirement and social security funds for that portion of institutional employees' salaries paid from local funds.
4. And any tort claims awarded against the institution due to the negligence of institutional employees.

(b) The board of trustees of each institution may apply local public funds provided in accordance with § 115A-20 (a) or § 115A-21 (a), as appropriate, or private funds, or both, to the supplementation of items of the current expense budget financed from State funds, provided a supplemental current expense budget is submitted in accordance with § 115A-27 (3). (1963, c. 448, s. 23.)

§ 115A-20. Providing local public funds for institutions established under this chapter; elections.—(a) Except as provided in § 115A-21, the tax levying authority of an institution may provide for local financial support of the institution as follows:

(1) By appropriations from nontax revenues in a manner consistent with the County Fiscal Control Act, provided the continuing authority to make such appropriations shall have been approved by a majority of the qualified voters of the administrative area who shall vote on the question in an election held for such purpose, and/or

(2) By a special annual levy of taxes within a maximum annual rate which maximum rate shall have been approved by a majority of the qualified voters of the administrative area who shall vote on the question of establishing or increasing the maximum annual rate in an election held for such purpose; and

(3) By issuance of bonds, in the case of capital outlay funds, provided that each issuance of bonds shall be approved by a majority of the qualified voters of each county of the administrative area who shall vote on the question in an election held for that purpose. All bonds shall be

subject to the Local Government Act and shall be issued pursuant to the County Finance Act. For the purpose of county debt limitations provided in that act, bonds issued for the purpose of this chapter shall be considered to be "for other than school purposes" as that term is used in §§ 153-84 and 153-87.

(b) At the election on the question of approving authority of the board of commissioners of each county in an administrative area (the tax levying authority) to appropriate funds from nontax revenues and/or a special annual levy of taxes, the ballot furnished the qualified voters in each county may be worded substantially as follows: "For the authority of the board of commissioners to appropriate funds either from nontax revenues or from a special annual levy of taxes not to exceed an annual rate of ..... cents per one hundred dollars ($100.00) of assessed property valuation, or both, for the financial support of ..... (name of the institution)" plus any other pertinent information and "Against the authority of the board of commissioners, etc.," with a square before each proposition, in which the voter may make a cross mark (X), but any other form of ballot containing adequate information and properly stating the question to be voted upon shall be construed as being in compliance with this section.

(c) The question of approving authority to appropriate funds and/or to levy special taxes and the question of approving an issue of bonds, when approval of each shall be necessary for the establishment or conversion of an institution, shall be submitted at the same election.

(d) All elections shall be held in the same manner as elections held under article 9, chapter 153, of the General Statutes of North Carolina, the County Finance Act, and may be held at any time fixed by the tax levying authority of the administrative area or proposed administrative area of the institution for which such election is to be held.

(e) The State Board of Education shall ascertain that authority to provide adequate funds for the establishment and operation of an institution has been approved by the voters of a proposed administrative area before granting final approval for the establishment of an institution.

(f) Notwithstanding any present provisions of this Chapter, the tax levying authority of each institution may at its discretion and upon its own motion provide by appropriations of nontax revenue and/or tax revenue, funds for the support of institutional purposes as set forth in G.S. 115A-19; but nothing herein shall be construed to authorize the issuance of bonds without a vote of the people. (1963, c. 448, s. 23; 1971, c. 402.)

Editor's Note.—The 1971 amendment, effective July 1, 1971, added subsection (f).

§ **115A-21. Providing local public funds for institutions previously established.**—(a) For counties in which, immediately prior to the enactment of this chapter, there was in operation or authorized a public community college or industrial education center which hereafter shall be operated pursuant to the provisions of this chapter, the following provisions shall apply in providing local financial support for each such institution:

(1) Community colleges: The board of commissioners of a county in which is located a public community college heretofore operated or authorized to operate pursuant to article 3, chapter 116, of the General Statutes of North Carolina, may continue to levy special taxes annually for the local financial support of the college provided in § 115A-19, to the maximum rate last approved by the voters of the county in accordance with the above article. The board of commissioners may also provide all or part of such funds by appropriations, in a manner consistent with the County Fiscal Control Act, from nontax revenues. The question of increasing the maximum annual rate of a special tax may be submitted at an election held in accordance with the provisions of § 115A-20 (d) and the appropriate provisions of § 115A-22.

(2) Industrial education centers: The board of commissioners of a county in which is located an industrial education center heretofore operated

or authorized to operate as part of the public school system and which hereafter shall be operated as an industrial education center or technical institute as defined in this chapter, may levy special taxes annually at a rate sufficient to provide funds for the financial support of the center or institute required by § 115A-19 (a). The board of commissioners may also provide all or part of such funds by appropriations, in a manner consistent with the County Fiscal Control Act, from nontax revenues. The board of commissioners is authorized to provide additional funds, either by special tax levies or by appropriations from nontax revenues, or both, to an amount equal to that required to be provided above, for the purpose of supplementing the current expense budget of the center or institute financed from State funds.

(b) The board of commissioners of a county in which is located one of the above public community colleges or industrial education centers may provide funds for capital outlay for such institution by the issuance of bonds. All bonds shall be issued in accordance with the appropriate provisions of §§ 115A-20 and 115A-22.

(c) Public funds provided a community college or industrial education center prior to its becoming subject to the provisions of this chapter and which remain to the credit of the institution upon its becoming subject to these provisions, shall be expended only for the purposes prescribed by law when such funds were provided the institution. (1963, c. 448, s. 23; 1965, c. 842, s. 1.)

Editor's Note. — The 1965 amendment made subdivision (2) of subsection (a) applicable to technical institutes.

Section 2, c. 842, Session Laws 1965, provides: "All expenditures of funds heretofore expended by counties for local financial support for institutions which have been converted from industrial education centers to a technical institute are hereby ratified, validated and confirmed."

§ 115A-22. Requests for elections to provide funds for institutions. —(a) Formal requests for elections on the question of authority to appropriate nontax revenues and/or levy special taxes and to issue bonds, when such elections are to be held for the purpose of establishing an institution, shall be originated and submitted only in the following manner:

(1) Proposed multiple-county administrative areas: Formal requests for elections may be submitted jointly by all county boards of education in the proposed administrative area, or by petition of fifteen per cent (15%) of the number of qualified voters of the proposed area who voted in the last preceding election for Governor, to the boards of commissioners of all counties in the proposed area, who may fix the time for such election by joint resolution which shall be entered in the minutes of each board.

(2) Proposed single-county administrative area: Formal requests shall be submitted by the board of education of any public school administrative unit within the county of the proposed administrative area or by petition of fifteen per cent (15%) of the number of qualified voters of the county who voted in the last preceding election for Governor, to the board of commissioners of the county of the proposed administrative area, who may fix the time for such election by resolution which shall be entered in the minutes of the board.

(b) Formal requests for elections on any of the questions specified in (a) above, or on the question of increasing the maximum annual rate of special taxes for the financial support of an institution with a properly established board of trustees, may be submitted to the tax levying authority only by such board of trustees.

(c) All formal requests for elections regarding the levy of special taxes shall state the maximum annual rate for which approval is to be sought in an election.

(d) Nothing in this section shall be construed to deny or limit the power of

the tax levying authority of an institution to hold elections, of its own motion, on any or all the questions provided in this section, subject to the provisions herein. (1963, c. 448, s. 23.)

§ 115A-23. Elections on question of conversion of institutions and issuance of bonds therefor.—Whenever the board of trustees of an institution requests the State Board of Education to convert the institution from an industrial education center to a technical institute or community college, or from a technical institute to a community college, the Board may require, as a prerequisite to such conversion:

(1) The authorization by the voters of the administrative area of an annual levy of taxes within a specified maximum annual rate sufficient to provide the required local financial support for the converted institution, in an election held in accordance with the appropriate provisions of §§ 115A-20 and 115A-22.

(2) The approval by the voters of the administrative area of the issuance of bonds for capital outlay necessary for the conversion of the institution, in an election held in accordance with the appropriate provisions of §§ 115A-20 and 115A-22. (1963, c. 448, s. 23.)

§ 115A-24. Payment of expenses of special elections under chapter.—The cost of special elections held under the authority of this chapter in connection with the establishment of an institution shall be paid out of the general fund of the county or counties which shall conduct such elections. All special elections held on behalf of a duly established institution shall be paid by such institution and the expenses may be included in the annual institutional budgets. (1963, c. 448, s. 23.)

§ 115A-25. Authority to issue bonds and notes, to levy taxes and to appropriate nontax revenues. — Counties are authorized to issue bonds and notes and to levy special taxes to meet payments of principal and interest on such bonds or notes and to levy special taxes for the special purpose of providing local financial support of an institution and otherwise to appropriate nontax revenues for the financial support of an institution, in the manner and for the purposes provided in this chapter.

Taxes authorized by this section are declared to be for a special purpose and may be levied notwithstanding any constitutional limitation or limitations imposed by any general or special law. (1963, c. 448, s. 23.)

§ 115A-26. Student tuition and fees. — The State Board of Education may fix and regulate all tuition and fees charged to students for applying to or attending any institution pursuant to this chapter.

The receipts from all student tuition and fees, other than student activity fees, shall be State funds and shall be deposited as provided by regulations of the State Board of Education. (1963, c. 448, s. 23.)

Cross Reference.—As to contracts by minors borrowing for higher education, see § 116-174.1. at junior colleges and industrial education centers,

ARTICLE 4.

Budgeting, Accounting, and Fiscal Management.

§ 115A-27. Preparation and submission of institutional budgets.—On or before the first day of May of each year, the trustees of each institution shall prepare and submit a capital outlay budget and a current expense budget, on forms provided by the State Board of Education, and may prepare in their discretion a supplemental current expense budget. The budgets shall be prepared and submitted for approval according to the following procedures:

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(1) Capital outlay budget: The budget shall contain the items of capital outlay, as provided in §§ 115A-18 and 115A-19, for which funds are requested, from whatever source. The budget shall be submitted first to the tax levying authority, which shall approve or disapprove, in whole or in part, that portion of the budget requesting local public funds. Upon approval by the tax levying authority, the budget shall be submitted by the trustees to the State Board of Education, which may approve or disapprove, in whole or in part, that portion of the budget requesting State or federal funds.

(2) Current expense budget: The budget shall contain the items of current operating expenses, as provided in §§ 115A-18 and 115A-19, for which funds are requested, from whatever source. The budget shall be submitted first to the tax levying authority, which shall approve or disapprove, in whole or in part, that portion of the budget requesting local public funds. Upon approval by the tax levying authority, the budget shall be submitted by the trustees to the State Board of Education, which may approve or disapprove, in whole or in part, the entire budget. The State Board is authorized to withhold the allocation of State funds to an institution until a budget has been submitted to and approved by the Board.

(3) Supplemental current expense budget: The budget may contain any items of the current expense budget to be financed from State or federal funds which the trustees desire to supplement with local funds. The tax levying authority shall approve or disapprove, in whole or in part, that portion of the budget requesting local public funds. An information copy of the budget as approved shall be filed with the State Board of Education.

(4) No public funds shall be provided an institution, either by the tax levying authority or by the State, except in accordance with the budget provisions of this chapter.

(5) The preparation of a budget for and the payment of interest and principal on indebtedness incurred on behalf of an institution shall be the responsibility of the county accountant or county accountants of the administrative area and the board of trustees of the institution shall have no duty or responsibility in this connection. (1963, c. 448, s. 23.)

§ 115A-28. Administration of institutional budgets for local public funds.—(a) Duty of boards of trustees: It shall be the duty of the board of trustees of each institution to pay all obligations incurred in the operation of the institution promptly and when due, and to this end boards of trustees shall inform the tax levying authority from month to month of any anticipated expenditures which will exceed the current collection of taxes and such balance as may be on hand, if any, for the payment of said obligations, in order that the tax levying authority may make provision for the funds to be available. If a board of trustees shall willfully create a debt that shall in any way cause the expense of the year to exceed the amount authorized in the budget, without the approval of the tax levying authority, the indebtedness shall not be a valid obligation of the institution and the members of the board responsible for creating the debt may be held personally liable for the same.

(b) Duty of tax levying authorities: It shall be the duty of the tax levying authority of each institution to provide, as needed, the funds to meet the monthly expenditures, including salaries and other necessary operating expense, as set forth in a statement prepared by the board of trustees and in accordance with the approved budget. If the collection of taxes does not yield sufficient revenue for this purpose, it shall be the duty of the tax levying authority to borrow against the amount approved in the budget and to issue short term notes for the amount so borrowed in accordance with the provisions of the County Finance Act and the

Local Government Act. The interest on all such notes shall be provided by the tax levying authority in addition to the amount approved in the budget, unless this item is specifically included in the budget. (1963, c. 448, s. 23.)

§ 115A-29. Payment of State and local public funds to boards of trustees.—(a) The State Board of Education may deposit funds in the State treasury to the credit of each institution in monthly installments, at such time and in such manner as may be necessary to meet the needs of the institution, or the Board may disburse State funds to each institution under policies and regulations established by the board. Prior to the deposit or disbursement of State funds by the Board it shall be the duty of the board of trustees of each institution to file, on or before the first day of each month, with the State Board of Education a certified statement, on forms provided by the State Board of Education, of all expenditures, salaries, and other obligations that may be due and payable in the next succeeding month.

(b) Upon the basis of an approved budget, the county auditors or accountants of all counties of the administrative area of an institution shall determine the proportion of taxes, nontax revenues and other funds accruing to the current expense and capital outlay budgets of the institution and shall credit these funds to the institution as they are collected. The county treasurer or corresponding official of each county shall remit promptly at the end of each month all funds collected for current expenses and capital outlay, except bond funds, to the board of trustees of the institution.

In the event that a greater amount is collected and paid to the board of trustees of an institution than is authorized by its approved budgets for current expenses and capital outlay, the excess shall remain an unencumbered balance to be credited proportionally to those funds in the following fiscal year, and such excess shall not be spent, committed, or obligated unless the budget is revised with the approval of the board of trustees and the tax levying authority.

(c) Funds received by the trustees of an institution from insurance payments for loss or damage to buildings shall be used for the repair or replacement of such buildings or, if the buildings are not repaired or replaced, to reduce proportionally the institutional indebtedness borne by the counties of the administrative area of the institution receiving the insurance payments. If such payments which are not used to repair or replace institutional buildings exceed the total institutional indebtedness borne by all counties of the administrative area, such excess funds shall remain to the credit of the institution and be applied to the next succeeding capital outlay budgets until the excess fund shall be expended. Funds received by the trustees of an institution for loss or damage to the contents of buildings shall be divided between the board of trustees and the State Board of Education in proportion to the value of the lost contents owned by the board of trustees and the State, respectively. That portion retained by the trustees shall be applied to the repair or replacement of lost contents or shall remain to the credit of the institution to be applied to the next succeeding capital outlay and current expense budgets, as appropriate, until such funds shall be expended. (1963, c. 448, s. 23.)

§ 115A-30. Disbursement of institutional funds.—Public funds provided for an institution shall be paid out as follows:

(1) State funds: All State funds received by or deposited to the credit of an institution shall be disbursed only upon warrants drawn on the State Treasurer and signed by two employees of the institution who shall have been designated by the board of trustees and who shall have been approved by the State Board of Education. Such funds may be disbursed in any other manner provided by regulations of the State Board of Education.

(2) Local funds: All local public funds received by or credited to an institu-

tion shall be disbursed on warrants signed by two employees of the institution who shall have been designated by the board of trustees and who shall have been approved by the State Board of Education. Such warrants shall be countersigned by the appropriate county officer or officers as provided by law, but only if the funds required by such warrant are within the amount of funds remaining to the credit of the institution and are within the unencumbered balance of the appropriation for the item of expenditure according to the approved budgets of the institution: Provided, that in lieu of countersignature by the county officer or officers as provided by law, the board of county commissioners which appropriated the local public funds may from time to time, with the approval of the board of trustees of the institution, designate an employee of the institution to countersign the warrants, and the employee so designated shall countersign a warrant only if the funds required by such warrant are within the amount of funds remaining to the credit of the institution and are within the unencumbered balance of the appropriation for the item of expenditure according to the approved budgets of the institution. Each warrant shall be accompanied by an invoice, statement, voucher, or other basic document which indicates to the satisfaction of the countersigning county officer or officers that the issuance of such warrant is proper. (1963, c. 448, s. 23; 1965, c. 488, s. 2.)

Local Modification. — Duplin County: 1965, c. 961, s. 1.

Editor's Note. — The 1965 amendment inserted the proviso in subdivision (2).

§ **115A-31. Purchase of equipment and supplies.**—It shall be the duty of the several boards of trustees to purchase all supplies, equipment, and materials in accordance with contracts made by or with approval of the North Carolina Department of Administration. No contract shall be made by any board of trustees for purchases unless provision has been made in the budget of the institution to provide payment therefor, and in order to protect the State purchase contracts, it is the mandatory duty of the board of trustees and administrative officers of each institution to pay for such purchases promptly in accordance with the contract of purchase. (1963, c. 448, s. 23.)

§ **115A-32. Audits of institutional accounts.**—The State Auditor shall be responsible for conducting annually a thorough post audit of the receipts, expenditures, and fiscal transactions of each institution.

The annual audits shall be completed as near to the close of the fiscal year as practicable and copies of each audit shall be filed with the chairman of the board of trustees, the executive head of the institution, the county auditor of each county of the administrative area, the State Board of Education, and the Director of the Local Government Commission. (1963, c. 448, s. 23.)

§ **115A-33. Surety bonds.**—The State Board of Education shall determine what State employees and employees of institutions shall give bonds for the protection of State funds and property and the Board is authorized to place the bonds and pay the premiums thereon from State funds.

The board of trustees of each institution shall require all institutional employees authorized to draw or approve checks or vouchers drawn on local funds, and all persons authorized or permitted to receive institutional funds from whatever source, and all persons responsible for or authorized to handle institutional property, to be bonded by a surety company authorized to do business in this State in such amount as the board of trustees deems sufficient for the protection of such property and funds. The tax levying authority of each institution shall provide the funds necessary for the payment of the premiums on such bonds. (1963, c. 448, s. 23.)

§ 115A-34. Fire and casualty insurance on institutional buildings and contents.—(a) The board of trustees of each institution, in order to safeguard the investment in institutional buildings and their contents, shall

(1) Insure and keep insured each building owned by the institution to the extent of the current insurable value, as determined by the insured and insurer, against loss by fire, lightning, and the other perils embraced in extended coverage; and

(2) Insure and keep insured equipment and other contents of all institutional buildings that are the property of the institution or the State or which are used in the operation of the institution.

(b) The tax levying authority of each institution shall provide the funds necessary for the purchase of the insurance required in (a) above.

(c) Boards of trustees may purchase insurance from companies duly licensed and authorized to sell insurance in this State or may obtain insurance in accordance with the provisions of article 16, chapter 115, of the General Statutes, "State Insurance of Public School Property." (1963, c. 448, s. 23.)

§ 115A-35. Liability insurance; tort actions against boards of trustees.—(a) Boards of trustees may purchase liability insurance only from companies duly licensed and authorized to sell insurance in this State. Each contract of insurance must by its terms adequately insure the board of trustees against any and all liability for any damages by reason of death or injury to person or property proximately caused by the negligence or torts of the agents and employees of such board of trustees or institution when acting within the scope of their authority or the course of their employment. Any company which enters into such a contract of insurance with a board of trustees, by such act waives any defense based upon the governmental immunity of such board.

(b) Any person sustaining damages, or in case of death, his personal representative, may sue a board of trustees insured under this section for the recovery of such damages in any court of competent jurisdiction in this State, but only in a county of the administrative area of the institution against which the suit is brought; and it shall be no defense to any such action that the negligence or tort complained of was in pursuance of a governmental, municipal, or discretionary function of such board of trustees, to the extent that such board is insured as provided by this section.

(c) Nothing in this section shall be construed to deprive any board of trustees of any defense whatsoever to any action for damages, or to restrict, limit, or otherwise affect any such defense; and nothing in this section shall be construed to relieve any person sustaining damages or any personal representative of any decedent from any duty to give notice of such claim to the board of trustees or commence any civil action for the recovery of damages within the applicable period of time prescribed or limited by law.

(d) No part of the pleadings which relate to or allege facts as to a defendant's insurance against liability shall be read or mentioned in the presence of the trial jury in any action brought pursuant to this section. Liability shall not attach unless the plaintiff shall waive the right to have all issues of law and fact relating to insurance in such action determined by a jury, and such issues shall be heard and determined by the judge without resort to a jury and the jury shall be absent during any motions, arguments, testimony or announcements of findings of fact or conclusions of law with respect thereto, unless the defendant shall request jury trial thereon.

(e) The board of trustees of all institutions in this chapter are authorized to pay as a necessary expense the lawful premiums of liability insurance provided in this section. (1963, c. 448, s. 23.)

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ARTICLE 5.

Special Provisions.

§ 115A-36. Authorization for transfer of State appropriations. — (a) Upon transferal of the administration and operation of industrial education centers from the State public school system to the provisions of this chapter, and upon request from the State Board of Education, the Director of the Budget, with the approval of the Advisory Budget Commission, is authorized to transfer funds appropriated to the State Board of Education for the support of industrial education centers under the title of "Vocational Education" to appropriation accounts established for the support of the institutions provided in this chapter.

(b) Upon transferal of the administration and operation of a community college from the provisions of article 3, chapter 116, of the General Statutes of North Carolina, to the provisions of this chapter, and upon request of the State Board of Education, the Director of the Budget, with the approval of the Advisory Budget Commission, is authorized to transfer funds appropriated to the Department of Administration under the title of "Community Colleges" to appropriation accounts established for the support of the institutions provided in this chapter. (1963, c. 448, s. 23.)

§ 115A-37. Multiple county administrative areas. — Should two or more counties determine to form an administrative area for the purpose of establishing and supporting an institution, the boards of commissioners of all such counties shall jointly propose a contract to be submitted to the State Board of Education as part of the request for establishment of an institution. The contract shall provide, in terms consistent with this chapter, for financial support of the institution, selection of trustees, termination of the contract and the administrative area, and any other necessary provisions. The State Board of Education shall have authority to approve the terms of the contract as a prerequisite for granting approval of the establishment of the institution and the administrative area. (1963, c. 448, s. 23.)

§ 115A-38. Special provisions for Central Piedmont Community College.—(a) As soon as practicable in accordance with the provisions of § 115A-4, transferal shall be made of the administration and operation of Mecklenburg College and Charlotte Central Industrial Education Center from their respective administative boards to a single board of trustees selected as provided in § 115A-7 (a). The two institutions shall thereafter constitute the Central Piedmont Community College, which shall be operated in accordance with the provisions of this chapter as a single institution.

(b) The board of commissioners of Mecklenburg County is authorized to provide the local financial support for the Central Piedmont Community College as provided in § 115A-19 by levying a special tax to a maximum annual rate equal to the maximum rate last approved by the voters of the county for the support of the Central Piedmont Community College as operated pursuant to article 3, chapter 116, of the General Statutes of North Carolina, or by appropriations from nontax revenues, or by both. The question of increasing the maximum annual rate may be submitted at an election held in accordance with the provisions of § 115A-20 (d) and the appropriate provisions of § 115A-22.

(c) When, in the opinion of the board of trustees of said institution, the use of any building, building site, or other real property owned or held by said board is unnecessary or undesirable for the purposes of said institution, the board of trustees may sell, exchange, or lease such property in the same manner as is provided by law for the sale, exchange, or lease of school property by county or

city boards of education. The proceeds of any such sale or lease shall be used for capital outlay purposes. (1963, c. 448, s. 23; 1965, c. 402.)

Editor's Note. — The 1965 amendment substituted "Central Piedmont Community College" for "Charlotte Community College System" throughout subsections (a) and (b) and added subsection (c).

§ 115A-38.1. Special provisions for Onslow County Technical Institute.—(a) The State Board of Education shall have authority to approve the conversion of the Onslow County Industrial Education Center to a technical institute, as defined in chapter 115A of the General Statutes of North Carolina.

(b) All local taxes heretofore authorized by the voters of Onslow County to be levied annually for the local financial support of the Onslow County Industrial Education Center may continue to be levied by the board of commissioners of Onslow County for the purpose of providing local financial support of the institution as a technical institute.

(c) The Onslow County board of education is authorized to transfer without compensation to the board of trustees of the Onslow County Industrial Education Center the title to any real and personal property held by the board of education as the two boards may agree upon, either before or after the institution is converted to a technical institute.

(d) In the event that the State Board of Education shall approve the conversion of the Onslow County Industrial Education Center to a technical institute, within sixty days after the Board grants final approval, the Governor shall appoint four additional members to the board of trustees of the Onslow County Technical Institute in accordance with the provisions of §§ 115A-7 and 115A-8 (1) of the General Statutes of North Carolina. (1967, c. 279.)

ARTICLE 6.

Textile Training School.

§ 115A-39. Creation of board of trustees; members and terms of office; no compensation.—The affairs of the North Carolina Vocational Textile School shall be managed by a board of trustees composed of nine members, who shall be appointed by the Governor, and the State Director of Vocational Education as ex officio member thereof. The terms of office of the trustees appointed by the Governor shall be as follows: Two of said trustees shall be appointed for a term of two years; two for three years; and two for four years. At the expiration of such terms, the appointments shall be made for periods of four years. In the event of any vacancy on said boards, the vacancy shall be filled by appointment by the Governor for the unexpired term of the member causing such vacancy. The members of the said board of trustees appointed by the Governor shall serve without compensation. The reenactment of this section shall not have the effect of vacating the appointment or changing the terms of any of the members of said board of trustees heretofore appointed. (1955, c. 1372, art. 27, s. 1; 1963, c. 448, s. 30; 1969, c. 479.)

Editor's Note.—

The 1969 amendment substituted "nine" for "six" in the first sentence.

State Government Reorganization. — North Carolina Vocational Textile School was transferred to the Department of Public education by § 143A-44, enacted by Session Laws 1971, c. 864.

§ **115A-40. Powers of board.**—The said board of trustees shall hold all the property of the North Carolina Vocational Textile School and shall have the authority to direct and manage the affairs of said school, and within available appropriations therefor, appoint a managing head and such other officers, teachers and employees as shall be necessary for the proper conduct thereof. The board of trustees, on behalf of said school, shall have the right to accept and administer any and all gifts and donations from the United States government or from any other source which may be useful in carrying on the affairs of said school. Provided, however, that the said board of trustees is not authorized to accept any such funds upon any condition that the said school shall be operated contrary to any provision of the Constitution or statutes of this State. (1955, c. 1372, art. 27, s. 2; 1963, c. 448, s. 30.)

§ **115A-41. Board vested with powers and authority of former boards.**—The board of trustees acting under authority of this article is vested with all the powers and authority of the board created under authority of chapter 360 of the Public Laws of 1941, and the board created under authority of chapter 806 of the Session Laws of 1945. (1955, c. 1372, art. 27, s. 3; 1963, c. 448, s. 30.)

§ **115A-42. Persons eligible to attend institution; subjects taught.**—Persons eligible for attendance upon this institution shall be at least sixteen years of age and legal residents of the State of North Carolina: Provided, that out-of-state students, not to exceed ten per cent (10%) of the total enrollment, may be enrolled when vacancies exist, upon payment of tuition, the amount of tuition to be determined by the board of trustees. The money thus collected is to be deposited in the treasury of the North Carolina Vocational Textile School, to be used as needed in the operation of the school. The institution shall teach the general principles and practices of the textile manufacturing and related subjects. (1955, c. 1372, art. 27, s. 4; 1963, c. 448, s. 30.)

C. Miscellaneous Provisions

Chapter 116. Higher Education

§ **116-62.1. Motor vehicle laws applicable to streets, alleys and driveways on campus of Chowan College; college trustees authorized to adopt traffic regulations.**—(a) All the provisions of chapter 20 of the General Statutes relating to the use of the highways of the State and the operation of motor vehicles thereon are hereby made applicable to the streets, alleys and driveways on the campus of Chowan College. Any person violating any of the provisions of said chapter in or on such streets, alleys or driveways on the campus of Chowan College shall, upon conviction thereof, be punished as therein prescribed. Nothing herein contained shall be construed as in any way interfering with the ownership and control of such streets, alleys and driveways on the campus of Chowan College as is now vested by law in the trustees of Chowan College or town of Murfreesboro.

(b) The board of trustees of Chowan College is authorized to make such additional rules and regulations and adopt such additional ordinances with respect to the use of the streets, alleys, driveways, and to the establishment of parking areas on such campus not inconsistent with the provisions of chapter 20, General Statutes of North Carolina, and the ordinances of the town of Murfreesboro, as in its opinion may be necessary. All regulations and ordinances adopted pursuant to the authority of this subsection shall be recorded in the proceedings of the board and printed, and copies of such regulations and ordinances shall be filed in the office of the Secretary of State of North Carolina. Any person violating any such regulations or ordinances shall, upon conviction thereof, be guilty of a misdemeanor, and shall be punishable by fine of not exceeding fifty dollars ($50.00) or imprisonment for not exceeding thirty days.

(c) The board of trustees of Chowan College shall cause to be posted at appropriate places on the campus of Chowan College notice to the public of applicable speed limits and parking laws and ordinances. (1965, c. 688.)

Chapter 1190 of the 1973 Session Laws (2nd Session, 1974)

AN ACT TO MAKE APPROPRIATIONS FOR CURRENT OPERATIONS OF THE STATE DEPARTMENTS, INSTITUTIONS, AND AGENCIES, AND FOR OTHER PURPOSES.

The General Assembly of North Carolina do enact:

. . . .

SPECIAL PROVISIONS

. . . .

Sec. 12. It is the intention of this act that it shall be the announced policy of the Department of Community Colleges that, as to capital improvement projects, no construction contracts may be let until it has been clearly established that funds are available for the related permanent equipment.

Funds appropriated herein to the State Department of Public Education, Department of Community Colleges, to purchase equipment and library books for the community colleges institutions shall be permanent appropriations, and unexpended portions of these appropriations shall not revert to the General Fund at the end of the fiscal year.

Sec. 13. Funds appropriated herein to the State Department of Public Education, Department of Community Colleges, for allocation to the institutions comprising the Community College System as operating expenses shall not be used to support general adult education extension courses. The financing of such courses by any institution shall be in accordance with the State Board of Education's Policy #3.0222:

"An institution in the Community College System shall have the authority to sponsor self-supporting programs, seminars, cultural exhibits, and the like, as differentiated from normal organized class instruction, deposit income, if any, to a local account, and pay all expenses from such local account. (6-2-66) However, contact hours produced from such activities shall *not* be counted for inclusion when computing FTE for use in budget-funding formulas at the State level. (2-1-68) Institutions may also offer self-supporting organized class instruction in recreational or avocational areas by making special request to the Department of Community Colleges, showing income to offset expenditures, and justifying same. Such income will be State funds, and deposited accordingly. Expenditures will be made from all allocation of State funds made to the institution on the basis of the increased receipts shown in the application. (6-2-66)."

Sec. 14. Except as specifically authorized in this act, funds appropriated herein to the State Department of Public Education, Department of Community Colleges, for operating costs of the community colleges and technical institutes are intended to support student enrollment at the per student rate provided by the formula adopted by the State Board of Education for 1973-74 for allocation of these operating funds and shall not be used to increase the formula by which the fund allocations will be determined. . . . .

Sec. 35. Salary increase funds provided in this act for community college personnel are for two purposes:

(1) to provide an average increase of seven and one-half percent (7½%) for all community college instructional personnel to be allocated to individuals according to the rules and regulations established by the State Board of Education; and

(2) to provide an additional average increase of two and one-half percent (2½%) for instructional curriculum personnel to be distributed according to rules and regulations established by the State Board of Education.

. . . .

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XII. Miscellaneous

A. Public Meetings

Chapter 143. State Departments, Institutions, and Commissions

ARTICLE 33B.

Meetings of Governmental Bodies.

§ **143-318.1. Public policy.** — Whereas the commissions, committees, boards, councils and other governing and governmental bodies which administer the legislative and executive functions of this State and its political subdivisions exist solely to conduct the peoples' business, it is the public policy of this State that the hearings, deliberations and actions of said bodies be conducted openly. (1971 c. 633, s. 1.)

Editor's Note.—Session Laws 1971, c. 638, s. 2, provides: "All laws and clauses of laws in conflict with the provisions of this act, including (without limitation) all laws and clauses of laws without State-wide application, are hereby repealed."

Session Laws 1971, c. 638, s. 3, makes the act effective July 1, 1971.

§ **143-318.2. All official meetings open to the public.**—All official meetings of the governing and governmental bodies of this State and its political subdivisions, including all State, county, city and municipal commissions, committees, boards, authorities, and councils and any subdivision, subcommittee, or other subsidiary or component part thereof which have or claim authority to conduct hearings, deliberate or act as bodies politic and in the public interest shall be open to the public. And every meeting, assembly, or gathering together at any time or place of a majority of the members of such governing or governmental body for the purpose of conducting hearings, participating in deliberations or voting upon or otherwise transacting the public business within the jurisdiction, real or apparent, of said body shall constitute an official meeting, but any social meeting or other informal assembly or gathering together of the members of any such body shall not constitute an official meeting unless called or held to evade the spirit and purposes of this Article. (1971, c. 638, s. 1.)

§ **143-318.3. Procedures.**—(a) Any of the bodies specified in G.S. 143-318.1, by the votes of a majority of its members present, may, during any regular or special meeting when a quorum is present, hold an executive session and exclude the public while considering:

(1) Acquisition, lease, or alienation of property;

(2) Negotiations between public employers and their employees or representatives thereof as to employment;

(3) Matters dealing with patients, employees or members of the medical staff of a hospital or medical clinic (including but not limited to all aspects of admission, treatment, and discharge, all medical records, reports and summaries, and all charges, accounts and credit information pertaining to said patients; all negotiations, contracts, conditions, assignments, regulations and disciplines relating to employees; and all aspects of hospital management, operation and discipline relating to members of the medical staff);

(4) Any matter coming within the physician-patient, lawyer-client or any other privileged relationship;

(5) Conferences with legal counsel and other deliberations concerning the prosecution, defense, settlement or litigation of any judicial action or proceeding in which the governing or governmental body is a party or by which it is directly affected.

(b) This Article shall not be construed to prevent any governing or governmental body specified in G.S. 143-318.1 from holding closed sessions to consider information regarding the appointment, employment, discipline, termination or dismissal of an employee or officer under the jurisdiction of such body and to hear and consider testimony on a complaint against such employee or officer; provided, however, that final action on the discharge of any employee for cause after hearing shall be taken in open session if such discharge is within the exclusive jurisdiction of said governing body. Nor shall this Article be construed to prevent any board of education or governing body of any public educational institution, or any committee or officer thereof, from hearing, considering and deciding disciplinary cases involving students in closed session.

(c) When any county board of commissioners or the governing body of any municipal corporation or board of education is faced with the existence of a riot or with conditions indicating that a riot or public disorders are imminent, within the territorial jurisdiction of such board or governing body, the board of commissioners of such county or the governing body of such municipal corporation or board of education, as the case may be, may meet in private session with such law-enforcement officers and others invited to any such meeting, excluding other members of the public, for the purpose of considering and taking appropriate action deemed necessary to cope with the existing situation during any such emergency. (1971, c. 638, s. 1.)

§ **143-318.4. Exceptions.**—The agencies or groups following are excluded from the provisions of G.S. 143-318.2:

(1) The Council of State
(2) The Board of Awards
(3) The N.C. State Department of Correction
(4) The State Department of Correction
(5) All law-enforcement agencies
(6) Grand and petit juries
(7) All study, research and investigative commissions and committees including the Legislative Services Commission.
(8) All State agencies, commissions or boards exercising quasi-judicial functions during any meeting or session held solely for the purpose of making a decision in an adjudicatory action or proceeding
(9) Every board enumerated in G.S. 150-9 and every board, commission, council or other body, or any committee thereof, authorized by statute to investigate, examine and determine the character and other qualifications of applicants for license to practice any profession in this State, or authorized to suspend or revoke licenses of, or to reprimand or take disciplinary action concerning any person licensed to engaged in the practice of any profession in this State; provided, however, that nothing in this Article shall be construed to amend, repeal or supersede any statute, now existing or hereafter enacted, which requires a public hearing or other practice and procedure in any proceeding before any such board, commission or other body, or any committee thereof.
(10) Any committee or subcommittee of the General Assembly has the inherent right to hold an executive session when it determines that it is absolutely necessary to have such a session in order to prevent personal embarrassment or when it is in the best interest of the State; and in no event shall any final action be taken by any committee or subcommittee except in open session. (1971, c. 638, s. 1.1973, c. 1262, s. 10.)

§ **143-318.5. Advisory Budget Commission and appropriation committees of General Assembly; application of Article.**—(a) The provisions of this Article shall not apply to meetings of the Advisory Budget Commission held for the purpose of actually preparing the budget required by the provisions of the Executive Budget Act (Article 1, Chapter 143, General Statutes of North Carolina), but nothing in this Article shall be construed to amend, repeal or supersede the provisions of G.S. 143-10 (or any similar statute hereafter enacted) requiring public hearings to secure information on any and all estimates to be included in the budget and providing for other procedures and practices incident to the preparation and adoption of the budget required by the State Budget Act.

(b) Nothing in this Article shall be construed to amend, repeal or supersede the provisions of G.S. 143-14, relating to the meetings of the appropriations committees of the House of Representatives and the Senate of the General Assembly of North Carolina, and subcommittees thereof. (1971, c. 638, s. 1.)

§ **143-318.6. Mandamus and injunctive relief.** — Any citizen denied access to a meeting required to be open by the provisions of this Article, in addition to other remedies, shall have a right to compel compliance with the provisions of this Article by application to a court of competent jurisdiction for restraining order, injunction or other appropriate relief. (1971, c. 638, s. 1.)

§ **143-318.7. Disruptions.**—Any person who wilfully interrupts, disturbs, or disrupts any official meeting required to be open to the public by this Article and who, upon being directed to leave such meeting by the presiding officer thereof, wilfully refuses to leave such meeting shall be guilty of a misdemeanor and upon conviction thereof shall be punished by imprisonment for not in excess of six months, pay a fine of two hundred fifty dollars ($250.00), or by both such fine and imprisonment. (1971, c. 638, s. 1.)

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B. Visiting Speakers

Chapter 116. Higher Education

ARTICLE 22.

Visiting Speakers at State Supported Institutions.

§ 116-199. Use of facilities for speaking purposes. — The board of trustees of each college or university which receives any state funds in support thereof, shall adopt and publish regulations governing the use of facilities of such college or university for speaking purposes by any person who:

(1) Is a known member of the Communist Party;

(2) Is known to advocate the overthrow of the Constitution of the United States or the State of North Carolina;

(3) Has pleaded the Fifth Amendment of the Constitution of the United States in refusing to answer any question, with respect to Communist or subversive connections, or activities, before any duly constituted legislative committee, any judicial tribunal, or any executive or administrative board of the United States or any state. (1963, c. 1207, s. 1; 1965, Ex. Sess., c. 1, s. 1.)

Editor's Note. — For comment on the barring of speakers from State educational institutions, see 42 N.C.L. Rev. 179 (1963).

The 1965 amendment rewrote the first paragraph.

Constitutionality. — The 1965 enactment of this section and § 116-200, and the procedures and regulations adopted by the board of trustees of the University of North Carolina on February 28, 1966, pursuant to these statutes, are facially unconstitutional because of vagueness. This is true even though the statutes and regulations, unlike their 1963 counterparts, only regulate, rather than prohibit, the appearance of a special group of speakers. Dickson v. Sitterson, 280 F. Supp. 486 (M.D.-N.C. 1968).

§ 116-200. Enforcement of article.—Any such regulations shall be enforced by the board of trustees, or other governing authority, of such college or university, or by such administrative personnel as may be appointed therefor by the board of trustees or other governing authority of such college or university. (1963, c. 1207, s. 2; 1965, Ex. Sess., c. 1, s. 2.)

Editor's Note. — The 1965 amendment substituted "Any such regulations" for "This article" at the beginning of the section.

Section 3 of the 1965 act provides that neither the act nor the provisions of this article as it appeared prior to the 1965 act should repeal or be construed to repeal any provision of article 4 of chapter 14 of the General Statutes (§§ 14-11 to 14-12.1).

Constitutionality. — The 1965 enactment of this section and § 116-199, and the procedures and regulations adopted by the board of trustees of the University of North Carolina on February 28, 1966, pursuant to these statutes, are facially unconstitutional because of vagueness. This is true even though the statutes and regulations, unlike their 1963 counterparts, only regulate, rather than prohibit, the appearance of a special group of speakers. Dickson v. Sitterson, 280 F. Supp. 486 (M.D.-N.C. 1968).

C. Motor Vehicles

Chapter 136. Roads and Highways

ARTICLE 2.

Powers and Duties of Commission.

§ 136-18. Powers of Commission.—The said State Highway Commission shall be vested with the following powers:

(25) The State Highway Commission is hereby authorized and directed to design, construct, repair, and maintain paved streets and roads upon the campus of each of the State's institutions of higher education, at state-owned hospitals for the treatment of tuberculosis, state-owned orthopedic hospitals, juvenile correction centers, mental health hospitals and retarded centers, schools for the deaf, and schools for the blind, when such construction, maintenance, or repairs have been authorized by the General Assembly in the appropriations bills enacted by the General Assembly. Cost for such construction, maintenance, and repairs shall be borne by the Highway Fund. Upon the General Assembly authorizing the construction, repair, or maintenance of a paved road or drive upon any of the above-mentioned institutions, the Highway Commission shall give such project priority to insure that it shall be accomplished as soon as feasible, at the minimum cost to the State, and in any event during the biennium for which the authorization shall have been given by the General Assembly. 1971, c 977.

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D. Nonstate Funds Imposing Obligation on State

Chapter 143. State Departments Institutions, and Commissions

ARTICLE 1.

Executive Budget Act.

§ 143-34.2. Information as to requests for nonstate funds for projects imposing obligation on State; statement of participation in contracts, etc., for nonstate funds.—All State agencies, funds, or state-supported institutions shall submit to the Department of Administration, as of the original date thereof, copies of all applications and requests for nonstate funds, (including federal funds), to be used for any purpose to which this section is applicable. This section shall be applicable to all projects and programs which do or may impose upon the State of North Carolina any substantial financial obligation at the time of or subsequent to the acceptance of any funds received upon any such application or request. Every State agency, fund or state-supported institution seeking nonstate funds for any such project or program shall furnish to the Department of Administration and the Advisory Budget Commission with each such copy of application or request, a statement of the purposes for which any such project or program is desired or advocated, the source and amount of funds to be granted or provided therefor, and a statement of the conditions, if any, upon which such funds are to be provided.

It shall be required of all State agencies, fund, or state-supported institutions, commissions or regional planning and development bodies to submit to the Department of Administration a statement of participation in any contract, agreement, plan or request for nonstate funds (including federal funds). (1965, c. 1181; 1969, c. 1210.)

Editor's Note.—The 1969 amendment added the second paragraph.

E. Criminal Law (For criminal law statutes pertaining to campus disorder, see Chapter IV.)

Chapter 14. Criminal Law

ARTICLE 9.

Hazing.

§ 14-35. Hazing; definition and punishment.—It shall be unlawful for any student in any college or school in this State to engage in what is known as hazing, or to aid or abet any other student in the commission of this offense. For the purposes of this section hazing is defined as follows: "to annoy any student by playing abusive or ridiculous tricks upon him, to frighten, scold, beat or harass him, or to subject him to personal indignity." Any violation of this section shall constitute a misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both. (1913, c. 169, ss. 1, 2, 3, 4; C. S., s. 4217; 1969, c. 1224, s. 1.)

Editor's Note. — The 1969 amendment, effective Oct. 1, 1969, added, at the end of the section, "punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both."

§ 14-36. Expulsion from school; duty of faculty to expel.—Upon conviction of any student of the offense of hazing, or of aiding or abetting in the commission of this offense, he shall, in addition to any punishment imposed by the court, be expelled from the college or school he is attending. The faculty or governing board of any college or school charged with the duty of expulsion of students for proper cause shall, upon such conviction at once expel the offender, and a failure to do so shall be a misdemeanor. (1913, c. 169, ss. 5, 6; C. S., s. 4218.)

§ 14-37. Certain persons and schools excepted; copy of article to be posted.—This article shall not apply to females, nor to schools or colleges not keeping boarders, nor to schools keeping less than ten student boarders. A copy of this article shall be framed and hung on display in every college or school to which it applies. (1913, c. 169, s. 3; C. S., s. 4219.)

§ 14-38. Witnesses in hazing trials; no indictment to be founded on self-criminating testimony.—In all trials for the offense of hazing any student or other person subpoenaed as a witness in behalf of the State shall be required to testify if called upon to do so: Provided, however, that no student or other person so testifying shall be amenable or subject to indictment on account of, or by reason of, such testimony. (1913, c. 169, s. 8; C. S., s. 4220.)

ARTICLE 26.

Offenses against Public Morality and Decency.

§ 14-198. Lewd women within three miles of colleges and boarding schools.—If any loose woman or woman of ill fame shall commit any act of lewdness with or in the presence of any student, who is under 18 years old, of any boarding school or college, within three miles of such school or college, she shall be guilty of a misdemeanor, and upon conviction shall be fined not exceeding fifty dollars ($50.00) or imprisoned not exceeding 30 days. Upon the trial of any such case students may be competent but not compellable to give evidence. No prosecution shall be had under this section after the lapse of six months. (1889, c. 523; Rev., s. 3353; C. S., s. 4353; 1971, c. 1231, s. 1.)

Editor's Note. — The 1971 amendment substituted "18" for "twenty-one" in the first sentence.

ARTICLE 52.

Miscellaneous Police Regulations.

§ 14-397. Use of name of denominational college in connection with dance hall.—It shall be unlawful for any person, firm, corporation, club or society, by whatsoever name called, to use in connection with any dance, or dance hall, by advertisement, announcement, or otherwise, the name of any college, or any class or organization of any college operated and conducted by a religious denomination, unless the written permission of the dean of such college is given, permitting and allowing the use of the name of such denominational college, or a class or organization of the same in connection with such dance, or dance hall. Any person violating any of the provisions of this section shall be guilty of a misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both. (1927, c. 6; 1969, c. 1224, s. 5.)

Editor's Note. — The 1969 amendment, effective Oct. 1, 1969, rewrote the provisions relating to punishment in the last sentence.

§ 14-401.1. Misdemeanor to tamper with examination questions.—Any person who purloins, steals, buys, receives, or sells, gives or offers to buy, give, or sell any examination questions or copies thereof of any examination provided and prepared by law before the date of the examination for which they shall have been prepared, shall be guilty of a misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both. (1917, c. 146, s. 10; C. S., s. 5658; 1969, c. 1224, s. 3.)

Editor's Note. — The 1969 amendment, effective Oct. 1, 1969, rewrote the provisions relating to punishment.

Note: Section Limited to Examinations "Provided and Prepared by Law."— The portion of this section reading "any examination provided and prepared by law" expressly limits the application of the statute to examinations "provided and prepared by law," i.e., examinations given by the State Board of Medical Examiners, the State Board of Law Examiners, and other examining boards of this class. The statute has no application to college examinations. *State v. Andrews*, 246 N.C. 561, 99 S.E. (2d) 745 (1957).

Chapter 18A. Regulation of Intoxicating Liquors

ARTICLE 4.

Malt Beverages and Wine.

§ 18A-40. Permits prohibited.—(a) No permit shall be issued for the sale of malt beverages or wine (fortified or unfortified) upon the campus or property of any public school or college in this State.

(b) No permit shall be issued to a poolroom or billiard parlor or to any person operating same for the sale of wine (fortified or unfortified).

(c) No retail malt beverage or wine (fortified or unfortified) on premise permit shall be issued for any establishment within 50 feet of a church or a public school unless the State Board of Alcoholic Control determines upon proper investigation and a hearing, if requested, that the establishment is a suitable one and that the failure to issue a permit will result in undue hardship. (1971, c. 872, s. 1.)

Chapter 20. Motor Vehicles

ARTICLE 3.

Motor Vehicle Act of 1937.

Part 10. Operation of Vehicles and Rules of the Road.

§ 20-138. Persons under the influence of intoxicating liquor. — (a) It is unlawful and punishable as provided in G.S. 20-179 for any person who is under the influence of intoxicating liquor to drive or operate any vehicle upon any highway or any public vehicular area within this State.

(b) It is unlawful for any person to operate any vehicle upon any highway or any public vehicular area within this State when the amount of alcohol in such person's blood is 0.10 percent or more by weight and upon conviction if such conviction is a first conviction under this section, he shall be eligible for consideration for limited driving privileges pursuant to the provisions of G.S. 20-179(b); provided that second and subsequent convictions under this section shall be punishable as provided in G.S. 20-179(a)(2) and (3). An offense under this subsection shall be treated as a lesser included offense of the offense of driving under the influence. (1937, c. 407, s. 101; 1971, c. 619, s. 1; 1973, c. 1081, s. 1.)

§ 20-139. Persons under the influence of drugs.—(a) It is unlawful and punishable as provided in G.S. 20-179 for any person who is an habitual user of any narcotic drug to drive or operate any vehicle upon any highway or public vehicular area within this State.

(b) It is unlawful and punishable as provided in G.S. 20-179 for any person, who is under the influence of any narcotic drug or who is under the influence of any other drug to such degree that his physical or mental faculties are appreciably impaired, to drive or operate a motor vehicle upon any highway or public vehicular area within this State.

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(c) The term "narcotic drug" as used in this Chapter shall have the meaning assigned to the term in Chapter 90 of the General Statutes. (1939, c. 292; 1951, c. 1042, s. 1; 1959, c. 1264, s. 1; 1971, c. 619, s. 2.)

Editor's Note. — The 1971 amendment, effective Oct. 1, 1971, rewrote this section, which formerly applied to operation on driveways of public or private institutions by an habitual user of narcotic drugs or by a person under the influence of intoxicating liquors or narcotic drugs.

Chapter 90. Medicine and Allied Occupations

Editor's Note.–The 1971 General Assembly rewrote the narcotic and stimulant drug laws, enacting a new Article 5 of Chapter 90, entitled the Controlled Substances Act [G.S. §§ 90-86 through -113.8].

Under the new law, as amended, the North Carolina Drug Authority is authorized to administer the provisions dealing with scheduling controlled substances and rescheduling them at later times based on an updated evaluation of potential for abuse, pharmacological effect, and risk to public health.

Controlled substances are listed in six schedules.

Schedule I: A high potential for abuse; no currently accepted medical use in the United States and no accepted safety for use in treatment under medical supervision. Examples include heroin, LSD, mescaline, and peyote.

Schedule II: A high potential for abuse; currently accepted medical use in the United States, or currently accepted medical use with severe restrictions; the abuse of the substance may lead to severe psychic or physical dependence. Examples include some opium derivatives, cocaine, methadone, ["speed"] and other amphetamines, and some of the stronger barbiturates.

Schedule III: A potential for abuse less than the substances listed in Schedules I and II; currently accepted medical use in the United States; abuse may lead to moderate or low physical dependence or high psychological dependence. Examples include paregoric, certain mild codeine preparations, some mild stimulent drugs, and many barbiturate drugs.

Schedule IV: A low potential for abuse relative to the substances listed in Schedule III; currently accepted medical use in the United States; limited physical or psychological dependence relative to the substances listed in Schedule III. Examples include meprobamate, paraldehyde, phenobarbital, and other mild barbiturates.

Schedule V: A low potential for abuse relative to the substances listed in Schedule IV; currently accepted medical use in the United States; and limited physical or psychological dependence relative to the substances listed in Schedule IV. These substances may be sold at retail without a prescription to anyone 18 or older by a registered pharmacist if he is satisfied that the drug is needed for medical purposes. Examples include cough medicines with codeine or opium.

Schedule VI: No currently accepted medical use in the United States, or a relatively low potential for abuse in terms of risk to public health and potential to produce psychic or physiological dependence liability based upon present

medical knowledge, or a need for further and continuing study to develop scientific evidence of its pharmacological effects. The only two substances on this schedule are marijuana and tetrahydrocannabinols.

Violations and penalties are set out in sections 90-95 and 90-95.1. Note the distinctions made for possession. Section 90-96 provides for special treatment for certain first offenders.

ARTICLE 5.

North Carolina Controlled Substances Act.

§ **90-95. Violations; penalties.**—(a) Except as authorized by this Article, it is unlawful for any person:

(1) To manufacture, sell or deliver, or possess with intent to manufacture, sell or deliver, a controlled substance;

(2) To create, sell or deliver, or possess with intent to sell or deliver, a counterfeit controlled substance;

(3) To possess a controlled substance.

(b) Any person who violates G.S. 90-95(a)(1) with respect to:

(1) A controlled substance classified in Schedule I or II shall be guilty of a felony and shall be sentenced to a term of imprisonment of not more than 10 years or fined not more than ten thousand dollars ($10,000), or both in the discretion of the court;

(2) A controlled substance classified in Schedule III, IV, V, or VI shall be guilty of a felony and shall be sentenced to a term of imprisonment of not more than five years or fined not more than five thousand dollars ($5,000), or both in the discretion of the court, but the transfer of less than 5 grams of marihuana for no remuneration shall not constitute a delivery in violation of G.S. 90-95(a)(1);

(c) Any person who violates G.S. 90-95(a)(2) shall be guilty of a felony and and shall be sentenced to a term of imprisonment of not more than five years or fined not more than five thousand dollars ($5,000), or both in the discretion of the court.

(d) Any person who violates G.S. 90-95(a)(3) with respect to:

(1) A controlled substance classified in Schedule I shall be guilty of a felony and shall be sentenced to a term of imprisonment of not more than five years or fined not more than five thousand dollars ($5,000), or both in the discretion of the court;

(2) A controlled substance classified in Schedule II, III, or IV shall be guilty of a misdemeanor and shall be sentenced to a term of imprisonment of not more than two years or fined not more than two thousand dollars ($2,000), or both in the discretion of the court; but if the quantity of the controlled substance, or combination of the controlled substances, exceeds 100 tablets, capsules, or other dosage units, or equivalent quantity, the violation shall be a felony punishable by a term of imprisonment of not more than five years or a fine of not more than five thousand dollars ($5,000), or both in the discretion of the court;

(3) A controlled substance classified in Schedule V shall be guilty of a misdemeanor and shall be sentenced to a term of imprisonment of not more than six months or fined not more than five hundred dollars ($500.00), or both in the discretion of the court;

(4) A controlled substance classified in Schedule VI shall be guilty of a misdemeanor and shall be sentenced to a term of imprisonment of not more than six months or fined not more than five hundred dollars ($500.00), or both in the discretion of the court; but if the quantity of the controlled substance exceeds one ounce (avoirdupois) of marihuana or one tenth of an ounce (avoirdupois) of the extracted resin of marihuana, commonly known as hashish, or if the controlled substance consists of any quantity of synthetic tetrahydrocannabinols or tetrahydrocannabinols isolated from the resin of marihuana, the violation shall be a felony punishable by a term of imprisonment of not more than five years or a fine of not more than five thousand dollars ($5,000), or both in the discretion of the court.

(e) The prescribed punishment and degree of any offense under this Article shall be subject to the following conditions, but the punishment for an offense may be increased only by the maximum authorized under any one of the applicable conditions:

(1) If any person commits a felony under this Article after having been previously convicted of an offense under any law of North Carolina or any law of the United States or any other state, which offense would be punishable as a felony under this Article, he shall be sentenced to a term of imprisonment of up to twice the term otherwise prescribed or fined up to twice the fine otherwise prescribed, or both in the discretion of the court;

(2) If any person commits a felony under this Article after having been previously convicted two or more times of offenses under any law of North Carolina or any law of the United States or any other state, which offenses would be punishable as felonies under this Article, he shall be sentenced to a term of imprisonment of not less than 10 years nor more than 30 years or fined not more than thirty thousand dollars ($30,000), or both in the discretion of the court;

(3) If any person commits an offense under this Article for which the prescribed punishment includes imprisonment for not more than two years, and if he has previously been convicted for one or more offenses under any law of North Carolina or any law of the United States or any other state, which offenses are punishable under any provision of this Article, he shall be guilty of a felony and shall be sentenced to a term of imprisonment of not more than five years or fined not more than five thousand dollars ($5,000), or both in the discretion of the court;

(4) If any person commits an offense under this Article for which the prescribed punishment includes imprisonment for not more than six months, and if he has previously been convicted for one or more offenses under any law of North Carolina or any law of the United States or any other state, which offenses are punishable under any provision of this Article, he shall be guilty of a misdemeanor and shall be sentenced to a term of imprisonment of not more than two years or fined not more than two thousand dollars ($2,000), or both in the discretion of the court;

(5) Any person 18 years of age or over who violates G.S. 90-95(a)(1) by delivering a controlled substance to a person under 16 years of age shall be guilty of a felony and shall be sentenced to a term of imprisonment of not less than five years nor more than 30 years.

(6) For the purpose of increasing punishment, previous convictions for offenses shall be counted by the number of separate trials at which final convictions were obtained and not by the number of charges at a single trial.

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(f) Any person convicted of an offense or offenses under this Article who is sentenced to an active term of imprisonment that is less than the maximum active term that could have been imposed may, in addition, be sentenced to a term of special probation. Except as indicated in this subsection, the administration of special probation shall be the same as probation. The conditions of special probation shall be fixed in the same manner as probation, and the conditions may include requirements for rehabilitation treatment. Special probation shall follow the active sentence but shall not preclude parole. If parole is granted, special probation shall become effective in place of parole. No term of special probation shall exceed five years. Special probation may be revoked in the same manner as probation; upon revocation, the original term of imprisonment may be increased by no more than the difference between the active term of imprisonment actually served and the maximum active term that could have been imposed at trial for the offense or offenses for which the person was convicted, and the resulting term of imprisonment need not be diminished by the time spent on special probation. A person whose special probation term has been revoked may be required to serve all or part of the remainder of the new term of imprisonment.

(g) Whenever matter is submitted to the North Carolina State Bureau of Investigation Laboratory, the Charlotte, North Carolina, Police Department Laboratory or to the Clinical Toxicological Lab, North Carolina Baptist Hospital, Winston-Salem for chemical analysis to determine if the matter is or contains a controlled substance, if the report of that analysis certified to upon a form approved by the Attorney General by the person performing the analysis shall be admissible without further authentication in all proceedings in the district court division of the General Court of Justice as evidence of the identity, nature, and quantity of the matter analyzed. (1971, c. 919, s. 1; 1973, c. 654, s. 1; c. 1078.)

Editor's Note. — The 1973 amendment, effective Jan. 1, 1974, rewrote this section.

Session Laws 1973, c. 654, s. 4, provides: "This act shall not apply to any offense committed prior to the effective date of this act, and any such offense shall be punishable as provided by the law in effect at the time such offense was committed."

§ 90-95.1. Continuing criminal enterprise.—(a) Any person who engages in a continuing criminal enterprise shall be sentenced to a term of imprisonment which may not be less than 10 years and which may be up to life imprisonment, to a fine of not more than one hundred thousand dollars ($100,000), and to the forfeiture prescribed in subsection (b) of this section; except that if any person engages in such activity after one or more prior convictions of him under this section have become final, he shall be sentenced to a term of imprisonment which may not be less than 20 years and which may be up to life imprisonment, to a fine of not more than two hundred thousand dollars ($200,000), and to the forfeiture described in subsection (b) of this section.

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(b) Any person who is convicted under subsection (a) of engaging in a continuing criminal enterprise shall forfeit to the State of North Carolina:

(1) The profits obtained by him in such enterprise, and

(2) Any of his interest in, claim against, or property or contractual rights of any kind affording a source of influence over, such enterprise.

(c) For purposes of this section, a person is engaged in a continuing criminal enterprise if:

(1) He violates any provision of this Article, the punishment of which is a felony; and

(2) Such violation is a part of a continuing series of violations of this Article:

a. Which are undertaken by such person in concert with five or more other persons with respect to whom such person occupies a position of organizer, a supervisory position, or any other position of management; and

b. From which such person obtains substantial income or resources.

(d) In the case of any sentence imposed under this section, imposition or execution of such sentence shall not be suspended and probation shall not be granted. (1971, c. 919, s. 1.)

§ 90-96. Conditional discharge and expunction of records for first offense.—(a) Whenever any person who has not previously been convicted of any offense under this Article, or under any statute of the United States, or any state relating to controlled substances included in any schedule of this Article pleads guilty to or is found guilty of a misdemeanor under this Article by possessing a controlled substance included within Schedules III through VI of this Article, the court may without entering a judgment of guilt and with the consent of such person, defer further proceedings and place him on probation upon such reasonable terms and conditions as it may require. Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge such person and dismiss the proceedings against him. Discharge and dismissal under this section shall be without court adjudication of guilt and shall not be deemed a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime including the additional penalties imposed for second or subsequent convictions of this Article. Discharge and dismissal under this section may occur only once with respect to any person. Disposition of a case under this section at the district court division of the General Court of Justice shall be final for the purpose of appeal.

(b) Upon the dismissal of such person and discharge of the proceedings against him under subsection (a) of this section, such person, if he were not over 21 years of age at the time of the offense, may apply to the court for an order to expunge from all official records (other than the confidential file to be retained by the North Carolina Department of Justice under subsection (c)) all recordation relating to his arrest, indictment or information, trial, finding of guilty, and dismissal and discharge pursuant to this section. If the court determines, after hearing, that such person was dismissed and the proceedings against him discharged and that he was not over 21 years of age at the time of the offense, it shall enter such order. The effect of such order shall be to restore such person, in the contemplation of the law, to the status he occupied before such arrest or indictment or information. No person as to whom such order has been entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his failures to recite or acknowledge such

arrest, or indictment or information, or trial in response to any inquiry made of him for any purpose.

(c) The clerk of superior court in each county in North Carolina shall, as soon as practicable after each term of court in his county, file with the North Carolina Department of Justice, the names of all persons convicted under this Article, together with the offense or offenses of which such persons were convicted. The clerk shall also file with the North Carolina Department of Justice the names of those persons granted a conditional discharge under the provisions of this Article, and the North Carolina Department of Justice shall maintain a confidential file containing the names of persons granted conditional discharges. The information contained in such file shall be disclosed only to judges of the General Court of Justice of North Carolina for the purpose of ascertaining whether any person charged with an offense under this Article has been previously granted a conditional discharge.

(d) Whenever any person is charged with a misdemeanor under this Article by possessing a controlled substance included within Schedules III through VI of this Article, upon dismissal by the State of the charges against him, upon entry of a nolle prosequi, or upon a finding of not guilty or other adjudication of innocence, such person may apply to the court for an order to expunge from all official records all recordation relating to his arrest, indictment or information, or trial. If the court determines, after hearing that such person was not over 21 years of age at the time any of the proceedings against him occurred, it shall enter such order. No person as to whom such order has been entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his failures to recite or acknowledge such arrest, or indictment or information, or trial in response to any inquiry made of him for any purpose. (1971, c. 919, s. 1; 1973, c. 654, s. 2; c. 1066.)

Editor's Note. — The 1973 amendment, effective Jan. 1, 1974, substituted "a misdemeanor under" for "violating" in the first sentence and added the last sentence of subsection (a).

Session Laws 1973, c. 654, s. 4, provides: "This act shall not apply to any offense committed prior to the effective date of this act, and any such offense shall be punishable as provided by the law in effect at the time such offense was committed."

Editor's Note.–

Other sections of the act provide for rules governing the distribution of controlled substances, for enforcement and forfeitures, and for further research. The possession of hypodermic syringes and needles is also regulated. A new Article 5A, the North Carolina Toxic Vapors Act, was also enacted. It broadens the old glue-sniffing statutes to cover a broader range of toxic vapors. (Ch. 1208, 1971 S.L., effective January 1, 1972.)

F. Official Misconduct

Chapter 14. Criminal Law

ARTICLE 31.

Misconduct in Public Office.

§ 14-236. **Acting as agent for those furnishing supplies for schools and other State institutions.**—If any member of any board of directors, board of managers, board of trustees of any of the educational, charitable, eleemosynary or penal institutions of the State, or any member of any board of education, or any county or district superintendent or examiner of teachers, or any trustee of any school or other institution supported in whole or in part from any of the public funds of the State, or any officer, agent, manager, teacher or employee of such boards, shall have any pecuniary interest, either directly or indirectly, proximately or remotely in supplying any goods, wares or merchandise of any nature or kind whatsoever for any of said institutions or schools; or if any of such officers, agents, managers, teachers or employees of such institution or school or State or county officer shall act as agent for any manufacturer, merchant, dealer, publisher or author for any article of merchandise to be used by any of said institutions or schools; or shall receive, directly or indirectly, any gift, emolument, reward or promise of reward for his influence in recommending or procuring the use of any manufactured article, goods, wares or merchandise of any nature or kind whatsoever by any of such institutions or schools, he shall be forthwith removed from his position in the public service, and shall upon conviction be deemed guilty of a misdemeanor and fined not less than fifty dollars nor more than five hundred dollars and be imprisoned, in the discretion of the court. (1897, c. 543; 1899, c. 732, s. 73; Rev., s. 3833; C. S., s. 4390.)

Purchase of Property from Company Owned by Wife.—A member of the board of education of a county is not guilty under this section for voting as such member for the purchase of school buses from a company selling them owned by his wife, and in which he had no pecuniary interest and for which he worked upon a salary, when the sale was made by other agents of the company upon a commission basis. State v. Debnam, 196 N. C. 740, 146 S. E. 857 (1929).

G. Eminent Domain

Chapter 40. Eminent Domain

ARTICLE 1

Right of Eminent Domain

. . . .

§ 40-2. **By whom right may be exercised.**—The right of eminent domain may, under the provisions of this chapter, be exercised for the purpose of constructing their roads, canals, pipelines originating in North Carolina for the transportation of petroleum products or coal, pipelines and mains originating in North Carolina for the transportation, distribution, or both, of gas, lines or wires, or other works, which are authorized by law and which involve a public use of benefit, by the bodies politic, corporation, or persons following:

. . . .

(4) Public institutions of the State for the purpose of providing water supplies, or for other necessary purposes of such institutions.

(5) School committees of public school districts, county boards of education, boards of trustees or of directors of any corporation holding title to real estate upon which any public school, private school, high school, academy, university or college is situated, in order to obtain a pure and adequate water supply for such school, college or university.

. . . .

(7) Any educational, penal, hospital or other institution incorporated or chartered by the State of North Carolina for the furtherance of any of its purposes, such institution being wholly or partly dependent upon the State for maintenance, and such institution shall be in need of land for its location, or such institution shall be in need of adjacent land for necessary enlargement or extension, or for land for the building of a road or roads or a sidetrack for railroads, necessary to the proper operations and completion of any such institution, and shall so declare through its board of directors, trustees or other governing boards by a resolution inserted in the minutes at a regular meeting or special meeting called for that purpose, such institution shall have all the powers, rights and privileges of eminent domain given under this chapter, to condemn and procure such land, and shall follow the procedure established under this chapter. (1852, C. 92, with many amendments.)

. . . .

H. Planning and Regulation of Development

Chapter 160A. Cities and Towns

ARTICLE 19.

Planning and Regulation of Development.

Part 3. Zoning.

§ 160A-392. Part applicable to buildings constructed by State and its subdivisions.—All of the provisions of this Part are hereby made applicable to the erection, construction, and use of buildings by the State of North Carolina and its political subdivisions. (1951, c. 1203, s. 1; 1971, c. 698, s. 1.)

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I. Sale of Merchandise by Governmental Units

Chapter 66. Commerce and Business

ARTICLE 11.

Government in Business

§ 66-58. Sale of merchandise by governmental units.—(a) Except as may be provided in this section, it shall be unlawful for any unit, department or agency of the State government, or any division or subdivision of any such unit, department or agency, or any individual employee or employees of any such unit, department or agency in his, or her, their capacity as employee or employees thereof, to engage directly or indirectly in the sale of goods, wares or merchandise in competition with citizens of the State, or to engage in the operation of restaurants, cafeterias or other eating places in any building owned by or leased in the name of the State, or to maintain service establishments for the rendering of services to the public ordinarily and customarily rendered by private enterprises, or to contract with any person, firm or corporation for the operation or rendering of any such businesses or services on behalf of any such unit, department or agency, or to purchase for or sell to any person, firm or corporation any article or merchandise in competition with private enterprise. The leasing or subleasing of space in any building owned, leased or operated by any unit, department or agency or division or subdivision thereof of the State for the purpose of operating or rendering of any of the businesses or services herein referred to is hereby prohibited.

(b) The provisions of subsection (a) of this section shall not apply to:

. . . .

(8) The Greater University of North Carolina with regard to its utilities and other services now operated by it nor to the sale of articles produced incident to the operation of instructional departments, articles incident to educational research, articles of merchandise incident to class room work, meals, books, or to articles of merchandise not exceeding twenty-five cents (25¢) in value when sold to members of the educational staff or staff auxiliary to education or to duly enrolled students or occasionally to immediate members of the families of members of the educational staff or of duly enrolled students nor to the sale of meals or merchandise to persons attending meetings or conventions as invited guests nor to the operation by the University of North Carolina of an inn or hotel and dinning and other facilities usually connected with a hotel or inn, nor to the hospital and Medical School of the University of North Carolina, nor to the Coliseum of North Carolina State College, and the other schools and colleges for higher education maintained or supported by the State.

(c) The provisions of subsection (a) shall not prohibit:

(1) The sale of products of experiment stations or test farms.

(2) The sale of learned journals, works of art, books or publications of the Department of Cultural Resources or other agencies, or the Supreme Court Reports or Session Laws of the General Assembly.

(3) The business operation of endowment funds established for the purpose of producing income for educational purposes; for purposes of this section, the phrase "operation of endowment funds" shall include the operation by public postsecondary educational institutions of campus stores, the profits from which are used exclusively for awarding scholarships to defray the expenses of students attending the institution; provided, that the operation of such stores must be approved by the board of trustees of the institution, and the merchandise sold shall be limited to educational materials and supplies, gift items and miscellaneous personal-use articles. Provided further that sales at campus stores are limited to employees of the institution and members of their immediate families, to duly enrolled students and their immediate families, and to other persons who are on campus other than for the purpose of purchasing merchandise from campus stores. It is the intent of this subdivision that campus stores be established and operated for the purpose of assuring the availability of merchandise described in this Article for sale to persons enumerated herein and not for the purpose of competing with stores operated in the communities surrounding the campuses of the University of North Carolina.

. . . .

(d) A department, agency or educational unit named in subsection (b) shall not perform any of the prohibited acts for or on behalf of any other department, agency or educational unit.

(e) Any person, whether employee of the State of North Carolina or not, who shall violate, or participate in the violation of this section, shall be guilty of a misdemeanor. (1939, c. 122; 1951, c. 1090, s. 1; 1957, c. 349, s. 6; 1973, c. 476, ss. 48, 128, 143; c. 965; c. 1262, s. 86; c. 1294; c. 1457, s. 7.)

Editor's Note.—The 1951 amendment rewrote this section. The 1957 amendment rewrote subdivision (6) of subsection (c). The fourth 1973 amendment added subdivision (3) of subsection (c).

J. Employee Benefits

Chapter 135. Retirement System for Teachers and State Employees; Social Security

Editor's Note.–Chapter 135 establishes the Teachers' and State Employees' Retirement System. Compulsory for most teachers and state employees, the system is a joint contributory, actuarially sound, and fixed-formula retirement system. Each member contributes 5 per cent of the first $5,600 of annual salary and 6 per cent on all salary over $5,600. The state makes a normal contribution of 4.55 per cent of salary, an accrued liability contribution of 3.50 per cent, and a contribution of 0.45 per cent for the death benefit, for a total contribution of 8.95 per cent of total covered compensation.

Retirement on an unreduced benefit may occur after thirty years of service or at 65 regardless of years of service. Retirement on a reduced benefit is possible at age 50 after twenty years of service or at age 60 if the employee is in service or service has vested. The formula for the normal retirement allowance is 1¼ per cent of average final compensation (highest average salary during any sixty consecutive calendar months) on the first $5,600 of salary plus 1½ per cent of average final compensation on all salary over $5,600 multiplied by the years of service.

An employee's contributions vest after five years of service. This qualifies him for a retirement allowance at age 60 regardless of where he has been employed between the time he completed five years of service and age 60. If a member ceases to be a state employee and applies for a refund of his contributions in lieu of retirement, his contributions will be returned to him with 4 per cent interest.

An employee who becomes permanently disabled is eligible for disability retirement after having completed five years of membership service. The disability retirement allowance is the same amount that he would have received if he had continued at the same rate of pay to age 65.

Retired members or survivors may receive an automatic cost-of-living increase in benefit if the Consumer Price Index increased more than 1 per cent in the previous year. The increase in benefits may be as high as 4 per cent if the price index increases more than 3.5 per cent.

Any teacher or state employee who withdrew his contributions from the Teachers' and State Employees' Retirement System and who subsequently returns to service, may upon completion of 10 years of membership service, repay in a lump sum any and all of the accumulated contributions previously withdrawn with interest and service fee and receive credit for the service forfeited at time of withdrawal (s).

Teachers and state employees with 10 years of membership service may purchase credit for previous military service by paying in a lump sum an amount based on the compensation the member earned when first employed with suffi-

cient interest added so as to equal one half of the cost of allowing such services. The credit will be allowed only for the initial period of active duty in the armed forces up to the time the member was first elgible for release and if the period of active service is not creditable in any other retirement system other than the National Guard or any reserve component.

Any member upon completion of 10 years of membership service may purchase credit for service rendered to another state, or other governmental subdivisions of the U.S., at the rate of one year of out-of-state service for each two years of service in this state with a maximum allowable of 10 years of out-of-state service. The member must not be eligible for any benefit from another jurisdiction as a result of such service and must make a lump sum payment equal to the full cost of providing credit for such out-of-state service.

An option to the state retirement plan is available to administrators and new faculty who hold the rank of instructor or above and who were appointed on or after July 1, 1971. This option permits the qualifying person to participate in T.I.A.A. (Teachers Insurance and Annuity Association).

Another benefit provided is medical, hospital, and disability insurance for all state employees. The state will pay $13 per month for hospital and $3 per month for disability insurance for each employee. Employees on a permanent part-time basis (half-time or more), may participate in the medical and hospital insurance plan by paying the entire premium for themselves and any dependents for whom they wish coverage.

The beneficiary of a member with one year of membership who dies in service before age 65 will be paid a death benefit equal to the compensation the member earned in the calendar year preceding the year of death subject to a maximum of $15,000. The death benefit may also be paid for members who die within 90 days after the last day of actual service. This benefit is over and above any other retirement benefit to which the beneficiary may be entitled.

State personnel are also covered by Social Security.

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K. Teacher Certificates

...pter 115. Elementary and Secondary Education

ARTICLE 18

Certification and Salaries of Employees; Workmen's Compensation

. . . .

§ 115-156. **Colleges to aid as to certificates.**—Each and every college or university of the State is hereby authorized to aid public school teachers or prospective teachers in securing, raising, or renewing their certificates, in accordance with the rules and regulations of the State Board of Education. (1955, c. 1372, art. 18, s. 5.)

. . . .

L. Cadavers for Medical Schools

Chapter 90. Medicine and Allied Occupations

§ 90-212. **What bodies to be furnished.**—All officers, agents or servants of the State of North Carolina, or of any county or town in said State, and all undertakers doing business within the State, having charge or control of a dead body required to be buried at public expense, or at the expense of any institution supported by State, county or town funds, shall be and hereby are required immediately to notify, and, upon the request of said Board or its authorized agent or agents, without fee or reward, deliver, at the end of a period not to exceed thirty-six hours after death, such body into the custody of the Board, and permit the Board or its agent or agents to take and remove all such bodies or otherwise dispose of them: Provided, that such body be not claimed within thirty-six hours after death to be disposed of without expense to the State, county or town, by any relative within the second degree of consanguinity, or by the husband or wife of such deceased person: Provided, further, that the thirty-six hour limit may be prolonged in cases within the jurisdiction of the coroner where retention for a longer time may be necessary: Provided, further, that the bodies of all such prisoners dying while in Central Prison or road camps of Wake County, whether death results from natural causes or otherwise, shall be equally distributed among the funeral homes in Raleigh; but only such funeral homes can qualify hereunder as at all times maintain a regular licensed embalmer: Provided, further, that nothing herein shall require the delivery of bodies of such prisoners to funeral directors of Wake County where the same are claimed by relatives or friends.

Whenever the dead body is that of an inmate of any State hospital, the State School for the Deaf, the State School for the Deaf, Dumb and Blind, or of any traveler or stranger, it may be embalmed and delivered to the North Carolina Board of Anatomy, but it shall be surrendered to the husband or wife of the deceased person or any other person within the second degree of consanguinity upon demand at any time within ten days after death upon the payment to said Board of the actual cost to it of embalming and preserving the body. (1903, c. 666, s. 2; Rev., s. 4288; 1911, c. 188; C. S., s. 6786; 1923, c. 110; 1937, c. 351; 1943, c. 100; 1969, c. 1279.)

Editor's Note.—

The 1969 amendment deleted the word "white" preceding "prisoners" and "funeral homes" in the third proviso and also deleted in that proviso a provision requiring distribution of the bodies of negro prisoners to negro funeral homes.

§ 90-213. Autopsies unlawful without consent of Board.—It is hereby declared unlawful to hold an autopsy on any dead human body subject to the provisions of this article without first having obtained the consent, in writing, of the chairman of the Board or of his accredited agent: Provided, that nothing in this article shall limit the coroner in the fulfillment of his duties: Provided, further, that nothing in §§ 90-211 through 90-216, inclusive, shall prevent a person from making testamentary disposition of his or her body after death. Provided, that nothing in this article shall restrict or limit the provisions of article 21 of the General Statutes, entitled "Chief Medical Examiner; Post-Mortem Medicolegal Examinations. (1903, c. 666, s. 3; Rev., s. 4289; 1911, c. 1888; C. S., s. 6787; 1943, c. 100; 1955, c. 972, s. 5; 1967, c. 1154, s. 3.)

Editor's Note.—

The 1967 amendment, effective Jan. 1, 1968, rewrote the last proviso, which formerly related to article 30 of chapter 130 and now relates to article 21 of that chapter of the General Statutes.

§ 90-214. Bodies to be distributed to medical schools.—The bodies obtained under this Article shall be distributed, with due precautions to shield them from the public view, among the several medical schools in a proportion to be agreed upon by the Secretary of Human Resources, such bodies to be used within the State for the advancement of science. (1903, c. 666, s. 4; Rev., s. 4290; C. S., s. 6788; 1943, c. 100; 1973, c. 476, s. 128.)

§ 90-215. How expenses paid.—All expenses for the delivery, distribution and embalming of the dead bodies obtained under this article upon the request of the North Carolina Board of Anatomy, under such rules and regulations as the Board may provide shall be borne by the medical school receiving same, and in no case shall the State or any county or town be liable therefor. (1903, c. 666, s. 5; Rev., s. 4291; C. S., s. 6789; 1943, c. 100.)

Editor's Note.—The 1943 amendment rewrote this section.

§ 90-216. Violation of article misdemeanor.—Any person failing or refusing to perform any duty imposed by this article, or violating any of its provisions shall be guilty of a misdemeanor, punishable by a fine and/or imprisonment in the discretion of the court. (1903, c. 666, s. 6; Rev., s. 3567; C. S., s. 6790; 1943, c. 100.)

Editor's Note.—The 1943 amendment rewrote this section.

M. Current Appropriations Act for Fiscal Year 1974-75

Chapter 1190 of the 1973 Session Laws (2nd Session, 1974)

AN ACT TO MAKE APPROPRIATIONS FOR CURRENT OPERATIONS OF THE STATE DEPARTMENT, INSTITUTIONS, AND AGENCIES, AND FOR OTHER PURPOSES.

The General Assembly of North Carolina enacts:

Section 1. The appropriations made herein are intended to be for maximum amounts necessary to provide the services and accomplish the purposes described in the Budget. It is the intent of the General Assembly that savings shall be effected where the total amounts appropriated shall not be required to perform these services and accomplish these purposes, and that, except as allowed by the Executive Budget Act, or as hereinafter provided, such savings shall be reverted to the appropriated fund at the end of the fiscal year.

GENERAL FUND

Sec. 2. Appropriations from the General Fund of the State for the maintenance of the State departments, institutions, and agencies, and for other purposes as enumerated are hereby made for the fiscal year ending June 30, 1975, according to the following schedule:

. . . .

Department of Public Education		$789,306,677
1. Department of Public Instruction	$ 4,362,470	
2. State Public School Fund	734,188,362	
3. State Board of Education	2,299,233	
4. Occupational Education	41,183,041	
5. Program of Education by Television	438,242	
6. Advancement School	920,589	
7. School Food Service	2,946,521	
8. Professional Improvement of Teachers	1,006,429	
9. Planning, Research & Development	1,203,554	
10. Evaluation & Assessment	758,236	
Department of Community Colleges		108,934,818
1. Department of Community Colleges	96,468,246	
2. Department of Community Colleges – Equipment	12,228,188	
3. Vocational Textile School	238,384	
The University of North Carolina Board of Governors		67,268,874
1. General Administration	3,210,129	
2. Institutional Programs		
a. Institutional Programs	39,331,073	

b. Reserve for Additional School of Medicine	7,500,000	
c. Academic Salary Increases	10,222,122	
3. Related Educational Programs	7,605,550	
University of North Carolina at Chapel Hill		55,342,145
1. Academic Affairs	34,106,338	
2. Division of Health Affairs	21,235,807	
North Carolina State University at Raleigh		46,423,714
1. Academic Affairs	28,790,707	
2. Industrial Extension Service	619,173	
3. Agricultural Experiment Station	9,650,330	
4. Agricultural Extension Service	7,363,504	
University of North Carolina at Greensboro		11,707,395
University of North Carolina at Charlotte		9,092,025
University of North Carolina at Asheville		2,133,345
University of North Carolina at Wilmington		3,966,203
East Carolina University		14,738,900
North Carolina Agricultural & Technical State University		6,896,475
Western Carolina University		7,767,064
Appalachian State University		10,905,797
Pembroke State University		2,949,341
Winston-Salem State University		2,955,730

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Elizabeth City State University	2,420,096
Fayetteville State University	2,960,136
North Carolina Central University	6,288,599
North Carolina School of the Arts	1,638,785
North Carolina Memorial Hospital	14,382,798
Department of Administration – Reserve for Educational Benefits – Children of Veterans	1,400,000

. . . .

Sec. 11. It is the intent of the General Assembly that the funds appropriated herein to replace lost federal receipts be utilized only for existing programs that suffer a loss in federal funding, and that transfers or allocations of funds from this reserve may not be made until approved by the Governor and Advisory Budget Commission.

. . . .

Sections 12, 13, and 14 deal with the community college institutions. They are set forth in the chapter on community colleges at p. 156.]

. . . .

Sec. 16. Funds appropriated herein to the State Department of Education to provide financial assistance to hospital programs of nursing education leading to diplomas in nursing which are fully accredited by the North Carolina Board of Nursing and operated under the authority of a public or nonprofit hospital licensed by the North Carolina Medical Care Commission shall be distributed upon application for financial assistance, on the basis of eight hundred fifty dollars ($850.00) for each student duly enrolled in the program as of December 1 of the preceding year and on condition that accreditation is maintained. The State Board of Education shall make such rules and regulations as are necessary to ensure that this financial assistance is used directly for faculty and instructional needs of diploma nursing programs.

Sec. 17. Funds appropriated herein to the Board of Governors of the University of North Carolina for continuation of financial assistance to the medical schools of Duke University and Wake Forest University shall be disbursed on certification of the respective school of medicine showing the number of North Carolina residents enrolled as first, second, third and fourth year students in the school as of November 1, 1974. To the extent of the appropriation made herein, disbursement shall be made to the school in the amount of five thousand dollars ($5,000) for each such student, five hundred dollars ($500.00) of which shall be placed by the school in a fund to be used to provide for tuition remission to financially needy North Carolina students who are enrolled in the school, provided that no individual student shall be awarded assistance from this fund in excess of one thousand five hundred dollars ($1,500) per year. The Board of Governors

shall establish the criteria for determining eligibility for tuition remission for financially needy North Carolina students who are enrolled in the school and shall review the grants or awards to said eligible students. The Board of Governors shall promulgate regulations not inconsistent with the North Carolina General Statutes pertaining to eligibility for in-State tuition at public universities and colleges in determining which students are residents of North Carolina. The Board shall also make such regulations as it may deem desirable to ensure that these funds are used directly for instruction in the medical programs of the schools and not for religious or other nonpublic purposes. The Board shall encourage the two schools to orient students toward personal health care in North Carolina giving special empahsis to family and community medicine.

Sec. 18. Funds appropriated in this act to the Board of Governors of the University of North Carolina for aid to private colleges shall be disbursed in accordance with the provisions of G.S. 116-19, G.S. 116-21, and G.S. 116-22. These funds are intended to provide up to two hundred dollars ($200.00) per full-time equivalent North Carolina undergraduate student enrolled at a private institution as of October 1, 1974. These funds shall not be used for the provisions of G.S. 116-20 and any funds not required to fulfill the intent of the General Assembly shall revert to the General Fund as of June 30, 1975.

. . . .

Sec. 29. Within the limits of the appropriations made in Section 2 to the Board of Governors of the University of North Carolina, community hospitals are to be awarded grants in the amount of fifteen thousand dollars ($15,000) per year for each certified residency that is established and filled and that represents an increase over the number of certified residencies at those hospitals as of June 30, 1974, in the fields of family practice, internal medicine, pediatrics and obstetrics/gynecology.

None of the money appropriated to the Board of Governors of the University of North Carolina that is allocated as grants to area Health Education Centers shall be used to construct housing for residents or interns other than on-call quarters necessary while such residents or interns are on duty.

. . . .

Sec. 46. The Board of Governors of the University of North Carolina is hereby directed to submit to the General Assembly in its operating budget for the 1975-76 fiscal year comprehensive plans (1) to expand as soon as practicable the program of first-year medical education at the East Carolina University School of Medicine, and (2) to add a second year program of medical education at the East Carolina University School of Medicine, and (3) that concentration be placed upon the training of family care physicians, and (4) that special efforts be taken to encourage the recruitment and medical education of racial minorities.

In carrying out the purpose of this act, the University of North Carolina School of Medicine at Chapel Hill and the East Carolina University School of Medicine shall work cooperatively toward full accreditation of the expanded medical education program at East Carolina University to the end that its graduates may transfer freely to other units of the University of North Carolina School of Medicine.

The sum of seven million five hundred thousand dollars ($7,500,000) in Section 2 of this act is appropriated to the Board of Governors of the University of North Carolina to be expended for the erection of a basic medical science building at East Carolina University and for the purposes outlined in this section.

Funds appropriated in 1973-74 to the Board of Governors of the University of North Carolina as a reserve for an additional degree-granting school of medicine and carried foward to fiscal year 1974-75 shall be available for the purposes outlined on this section.

. . . .

N. Capital Improvements Appropriations Act of 1973

Chapter 523 of the 1973 Session Laws

AN ACT TO MAKE APPROPRIATIONS TO PROVIDE CAPITAL IMPROVEMENTS FOR STATE INSTITUTIONS, DEPARTMENTS, AND AGENCIES.

The General Assembly of North Carolina enacts:

Section 1. This act shall be known as "The Capital Improvement Appropriations Act of 1973".

. . . .

Sec. 18. It is the intent of this General Assembly that, of the appropriations enumerated above in this act, the items listed below are to be financed from the General Revenue Sharing Trust Fund of the State, and that all the provisions of this act which are applicable to the remaining items are also applicable to those funded from the General Revenue Sharing Trust Fund of the State, to the end of providing maximum flexibility for the expenditure of the appropriations made herein consistent with federal regulations governing expenditure of general shared federal revenue.

. . . .

UNIVERSITY OF NORTH CAROLINA BOARD OF GOVERNORS

Library Expansions, Additions and Improvements	4,470,000	
Renovations, Improvements and Construction of Instructional Facilities	24,888,600	
Renovations, Improvements and Construction of Maintenance Facilities	2,149,500	
North Carolina Memorial Hospital	8,140,000	
Total		$105,200,000

O. Capital Improvements Appropriations Act of 1974

Chapter 1202 of the 1973 Session Laws (2nd Session, 1974)

AN ACT TO MAKE APPROPRIATIONS TO PROVIDE CAPITAL IMPROVEMENTS FOR STATE INSTITUTIONS, DEPARTMENTS, AND AGENCIES.

The General Assembly of North Carolina enacts:

Section 1. This act shall be known as "The Capital Improvement Appropriations Act of 1974."

Sec. 2. The appropriations made by this act are for the purpose of constructing buildings and utilities, the renovation of buildings and utilities, acquiring sites therefor where necessary, acquiring and installing equipment, and acquiring lands at the institutions, departments and agencies of the State hereinafter mentioned, as detailed in the 1974–75 Budget.

. . . .

Sec. 6. When each project appropriated for in Section 4 of this act, other than those projects under the University of North Carolina Board of Governors, is placed under construction contract, direct appropriations therefor shall be encumbered to include all cost for construction, design, investigation, administration, movable equipment and a reasonable contigency. Surplus direct appropriations remaining in the project budget after encumbering costs described above shall be placed in Project Reserve Fund credited to the Department of Administration. Use of this Project Reserve Fund shall be at the discretion of the Director of the Budget, and solely to allow for award of contracts where bids exceed appropriated funds, on condition that such project supplemented shall have been designed within the physical scope intended by the applicable appropriation or any authorized change therein, and all means to award contracts within the appropriation shall have been reasonably attempted in the opinion of the Director of the Budget. The Project Reserve Fund shall not be used in connection with any projects under the University of North Carolina Board of Governors. At the discretion of the Advisory Budget Commission, any balances in the Project Reserve Fund shall revert to the original source.

Sec. 7. Upon the request of the department, agency or institution for which a capital improvement appropriation is herein made, the Govenor with a majority vote of the membership of the Advisory Budget Commission is authorized and empowered to postpone any capital improvement project as provided in this act and upon a finding that the project cannot be carried out as originally intended by the General Assembly.

Sec. 8. The Advisory Budget Commission may, when in its opinion it is in the best interest of the State to do so, and upon the request of the department, institution, or agency, authorize an increase or a decrease in size, scope, direct or self-liquidating appropriation, of any project or projects enumerated in this act within the funds available to that department, agency, or institution.

Sec. 9. The Director of the Budget and the Advisory Budget Commission may when, in their opinion, it is in the best interest of the State to do so and upon the request of the administration of any State agency or institution, authorize the construction of a capital improvement project not specifically provided for or authorized by the General Assembly when funds become available by gifts, grants or receipts.

. . . .

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Sec. 12. There is appropriated in Section 4 of this act a lump sum to the University of North Carolina Board of Governors. Expenditure of funds in this appropriation shall be in accordance with provisions of Chapter 1244 of the 1971 Session Laws, and provisions of this act except where specifically excluded.

. . . .

Sec. 15. The several departments, institutions, and agencies of the State are fully authorized and empowered to make application or applications to any agency or agencies of the United States of America for grant-in-aid for the construction of the several projects in this act and within the scope and intent of the projects enumerated in this act and to expend the same in accordance with the terms of such grants which are not contrary to the laws of this State. The Advisory Budget Commission and the Department of Administration, in its pertinent division, shall be furnished in advance with copies of all request for federal funds and this information shall be kept current.

Sec. 16. If reversions of 1973-74 maintenance appropriations exceed $60,800,000 by $1,789,000 or more, the appropriation made herein for an office building in Winston-Salem is transferred to the University of North Carolina Board of Governors for the North Carolina School of Arts, and $1,789,000 of the reversions is added to that appropriation to build a core teaching facility at the School of the Arts in the Amount of $3,685,000.

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THE INSTITUTE OF GOVERNMENT, an integral part of the University of North Carolina at Chapel Hill, is devoted to training and research in the fields of state and local government.

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